

A GUIDE  
TO THE  
DUTIES IMPOSED UPON LAND  
AND MINERAL RIGHTS

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WALTER P. BOAS

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A GUIDE  
TO THE  
DUTIES IMPOSED UPON LAND  
AND MINERAL RIGHTS

BY  
PART I. OF THE FINANCE (1909-10) ACT, 1910

INCLUDING THE TEXT OF THE ACT, NOTES ON EACH  
SECTION, AND ALL FORMS AND RULES ISSUED

BY  
WALTER P. BOAS  
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## PREFACE.

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THE following pages are an attempt to present in as simple a form as possible Part I. of the Finance (1909-1910) Act, 1910. I have endeavoured to show not only the legal import, but also the intended effect, of each section, and in this task I have received great assistance from a study of the Official Reports of the House of Commons.

The Act imposes four new duties upon the owners of land, increment value duty, reversion duty, undeveloped land duty, and mineral rights duty, and these duties may be shortly explained as follows.

Increment value duty is a duty of twenty per cent. upon the rise in the site value of land after the 30th day of April, 1909, and is payable on the transfer of land, on the grant of a lease of land, and on the death of the owner, or, when the owner is a body corporate or unincorporate, every fifteen years, commencing in the year 1914. Its aim is to secure for the community a share of the increase in the value of land which arises from the efforts of the community, and not from those of the owner of the land.

Reversion duty is a duty of ten per cent. on the value of any benefit accruing to a lessor by reason of the determination of a lease, and is payable on such determination. Its aim is to secure for the community a share of the increase in the value of land which arises partly from the

efforts of the community, and partly from expenditure on the land by a lessee.

Undeveloped land duty is an annual duty of one half-penny in the pound on the site value of land which has not been developed for building, when the value for building of such land is greater than the agricultural value. Its aim is to tax the owner of land who is holding up land for which there is a building demand.

Mineral rights duty is a duty of five per cent. upon the annual rent paid by the working lessee of minerals for the right to work such minerals, and upon the rent paid in respect of a wayleave, and is charged upon the person in receipt of the rent; where the proprietor of the minerals is himself working them, then the proprietor is charged with a similar duty upon the rent which the right to work such minerals would command. Increment value duty is also imposed upon minerals not being worked or comprised in a mining lease on the 30th day of April, 1909.

The Act also provides for a valuation of all land in the United Kingdom estimated as on the 30th day of April, 1909, for the periodical valuation of undeveloped land, for the keeping of proper records, for wide powers of appeal, and for many other matters which will be discussed in the following pages.

Before entering upon a detailed explanation of the duties imposed by the Act, it would seem advisable to examine the subject of taxation, and accordingly I deal first with Section 25 of the Act, which contains definitions of the several values of land, forming the basis of this new taxation. It was indeed urged strongly during the discussion in Committee on Section 1 that the Bill should be redrafted to this effect, but this, however, was not done. Section 25 is complicated, perhaps the most complicated section in the whole Act, but a knowledge of its

provisions will be of great assistance in arriving at a clear understanding of the burdens to be imposed upon the owners of land.

Throughout the work I have attempted to indicate the special significance of the Act with regard to Ireland ; the Act itself only draws one distinction, namely, in the definition of an interest in land, but I have shown its bearing on the ordinary forms of tenure of agricultural land in Ireland, and the very common case of land being held in fee farm.

I am aware of the difficulty of my task, and would plead as an excuse for any shortcomings the description of the Bill by Mr. A. J. Balfour, as one of greater intricacy and complexity than has ever been submitted to Parliament, and containing proposals more numerous and more novel than have ever been contained in one measure submitted to Parliament.

WALTER P. BOAS.

SCOTTISH PROVIDENT BUILDINGS,  
BELFAST.

*September, 1910.*



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A GUIDE  
TO THE  
DUTIES IMPOSED ON LAND AND  
MINERAL RIGHTS.

CHAPTER I.

DEFINITION OF VALUES.

*Definition of Values of Land.*

25.—(1) For the purposes of this Part of this Act, the gross value of land means the amount which the fee simple of the land, if sold at the time in the open market by a willing seller in its then condition, free from incumbrances, and from any burden, charge, or restriction (other than rates or taxes) might be expected to realise.

Sect. 25,  
sub-s. (1).  
  
Definition of  
values of  
land.

(2) The full site value of land means the amount which remains after deducting from the gross value of the land the difference (if any) between that value and the value which the fee simple of the land, if sold at the time in the open market by a willing seller, might be expected to realise if the land were divested of any buildings and of any other structures (including fixed or attached machinery) on, in, or under the surface, which are appurtenant to or used in connection with any such buildings, and of all growing timber, fruit trees, fruit bushes, and other things growing thereon.

(3) The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any

**Sect. 25,** fixed charges and to any public rights of way or any  
**sub-s. (3).** public rights of user, and to any right of common and to  
any easements affecting the land, and to any covenant or  
agreement restricting the use of the land entered into or  
made before the thirtieth day of April nineteen hundred  
and nine, and to any covenant or agreement restricting  
the use of the land entered into or made on or after that  
date, if, in the opinion of the Commissioners, the restraint  
imposed by the covenant or agreement so entered into or  
made on or after that date was when imposed desirable  
in the interests of the public, or in view of the character  
and surroundings of the neighbourhood, and the opinion  
of the Commissioners shall in this case be subject to an  
appeal to the referee, whose decision shall be final.

(4) The assessable site value of land means the total  
value after deducting—

- (a) The same amount as is to be deducted for the  
purpose of arriving at full site value from gross  
value; and
- (b) Any part of the total value which is proved to  
the Commissioners to be directly attributable  
to works executed, or expenditure of a capital  
nature (including any expenses of advertise-  
ment) incurred bonâ fide by or on behalf of or  
solely in the interests of any person interested  
in the land for the purpose of improving the  
value of the land as building land, or for the  
purpose of any business, trade, or industry other  
than agriculture; and
- (c) Any part of the total value which is proved to the  
Commissioners to be directly attributable to the  
appropriation of any land or to the gift of any  
land by any person interested in the land for  
the purpose of streets, roads, paths, squares,  
gardens, or other open spaces for the use of the  
public; and
- (d) Any part of the total value which is proved to  
the Commissioners to be directly attributable  
to the expenditure of money on the redemption

of any land tax, or any fixed charge, or on the enfranchisement of copyhold land or customary freeholds, or on effecting the release of any covenant or agreement restricting the use of land which may be taken into account in ascertaining the total value of the land, or to goodwill or any other matter which is personal to the owner, occupier, or other person interested for the time being in the land; and

Sect. 25  
sub-s. (4).

- (e) Any sums which, in the opinion of the Commissioners, it would be necessary to expend in order to divest the land of buildings, timber, trees, or other things of which it is to be taken to be divested for the purpose of arriving at the full site value from the gross value of the land and of which it would be necessary to divest the land for the purpose of realising the full site value.

Where any works executed or expenditure incurred for the purpose of improving the value of the land for agriculture have actually improved the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture, the works or expenditure shall, for the purpose of this provision, be treated as having been executed or incurred also for the latter purposes.

Any reference in this Act to site value (other than the reference to the site value of land on an occasion on which increment duty is to be collected) shall be deemed to be a reference to the assessable site value of the land as ascertained in accordance with this section.

(5) The provisions of this section are not applicable for the purpose of the valuation of minerals.

This section defines four different values, namely—gross value, full site value, total value, and assessable site value.

The gross value means the market value of the fee simple of the land (with all buildings and structures, fixed and attached machinery, on, in, or under the surface of the land,

Sect. 25. and all growing timber, fruit trees and bushes, and other things growing on it), in the sole occupation of the owner, subject to rates and taxes, but free from incumbrances (including mortgages, trusts for securing money, liens, charges, annuities, or any capital or annual sums) and restrictions on the use or enjoyment of the land. The gross value will have to be ascertained as at various times, such as, among others, the 30th day of April, 1909, the death of the owner, and the condition of the land at each such date will have to be ascertained. No deduction is allowed for costs of sale; these costs are covered by the allowance of 10 per cent. granted by sect. 3, sub-s. (5).

To arrive at the full site value, the market value of the fee simple of the land (divested of all buildings, structures, and machinery, etc., as set out in sub-s. (2)) in the sole occupation of the owner, subject to rates and taxes, but free from incumbrances and restrictions on the use or enjoyment of the land, must be ascertained. In the vast majority of cases such market value will be less than the gross value, and will then be the full site value, so that usually the full site value will be the gross value less the value (not the cost) of all buildings, etc. It is possible, however, that owing to the unsuitability of the buildings, the presence of growing timber, or some such cause, the buildings or timber detract from the value of the site. In such case the market value of the land divested of buildings, etc., would be greater than the gross value, when the curious result would be that the full site value would be the gross value *less* the difference between such market value and the gross value.

It should be noted that gross value and full site value are not liable to taxation; they are merely hypothetical values ascertained for the purpose of determining the deduction (*e*) in sub-s. (4) from total value to arrive at site value.

The total value means the market value of the fee simple of the land (with all buildings, structures, machinery, etc., as before) in the sole occupation of the owner, free from incumbrances, subject to rates and taxes, and subject also to any fixed charge, which, according to its definition in sect. 41, includes tithe, tithe rent-charge, fee farm rent, or any other perpetual rent or annuity, and any burden or charge arising by operation of law or imposed by any Act of Parliament (with the exceptions set out in the definition of "fixed

charge"), and subject to any public rights of way or user, and to any rights of common, and to any easements affecting the land, and to any restrictive covenant or agreement entered into before the 30th day of April, 1909. Any restrictive covenant or agreement entered into after such date, to entitle the owner to any allowance, must be considered desirable by the Commissioners or Referee, at the time when such covenant or agreement is entered into.

Sect. 25.  
—

To put it shortly, the total value is the market value of the fee simple of the land or buildings, as it could be sold by the owner free from incumbrances.

The case of land being held in fee farm is discussed in the notes to sub-s. (4). It is submitted that this will have the effect of bringing about a reduction in its total value not contemplated by the Act.

A right of way over the land may have the effect of decreasing its market value to a large extent; if it is of such a nature as to prevent the land from being developed to its full capacity, this circumstance must be taken into account in arriving at the total value.

The same remarks apply to land subject to an easement, such as a right to light by an adjoining tenement, which interferes with the development of the land.

Common rights are discussed in the notes to sect. 17, sub-s. (3) (b).

In the case of a restrictive covenant entered into either before or after the passing of the Act, it should be noted that it is only a restrictive covenant affecting the owner of the fee simple that will be taken into account in arriving at the total value. If such owner develops a building estate by granting leases of parcels of the estate which contain covenants restricting the lessees, such restrictive covenants will be disregarded in ascertaining the total value of the fee simple.

To arrive at the assessable site value, the deductions from the total value set out in sub-s. 4 (a), (b), (c), (d), and (e) must be made.

The deduction in (a) is practically the value of the buildings, machinery, timber, and trees, as enumerated in sub-s. 2.

It should be noted with regard to (b) that there is no time limit, but in many cases, of course, the time at which

**Sect. 25.** — the expenditure has been incurred will have a great bearing on the value to be attributed to such expenditure. The expenditure need not have been incurred on the land being valued ; large sums may have been spent on other portions of land in the same ownership, which would have the effect of increasing the value of the land in question, and an allowance will be made in respect of such expenditure. It should also be noted that the mere fact of buildings having been erected on a piece of ground will make that ground more valuable ; by spending money on buildings the owner may probably have added to the value of the ground itself ; in such case he will get an allowance for the value added by his enterprise. The following case will often occur. A man purchases ten acres of land for £1000 in a district where there are no industries ; he builds a factory on three acres, and the erection of the factory at once creates a demand for workers' houses, and raises the value of land in the immediate vicinity of the factory to £300 per acre, compared with a value of £100 before its erection ; the adjoining owners will be taxed in respect of the value added to their land to the extent of £200 per acre, but the owner of the factory will be exempted in respect of this rise in value of his ten acres, as the value is attributable to his capital expenditure.

With regard to the deductions allowed in (c), if a man purchases ten acres for £2000, and devotes two acres of the land to streets, gardens, or other open spaces for the use of the public, then in arriving at the site value of the other eight acres an approximate deduction of £400, being the cost of the two acres, will be allowed in respect of such appropriation, apart from a further allowance for the costs of making such streets or gardens under (b).

It should also be noted that portions of adjoining land in the same ownership may have been appropriated to increase the value of the land being valued, and in such case an allowance will be made in respect of same, but presumably not to the same extent as in the case mentioned above.

The deductions allowed in (d) for expenditure are allowances for money paid by the owner to relieve the land from land tax or any fixed charge, or from restrictive covenants, to which it was at any time liable. If money is spent on freeing land of an easement, such expenditure would come under sub-s. (b) as expenditure for improving the value of the land

as building land. A deduction for goodwill is also allowed where, in arriving at the total value, any value has been assigned to it. Sect. 25.

The deductions in (e) would appear to apply only in the case where the market value of the land would be increased by divesting it of unsuitable buildings, timber, trees, and other things set out in sub-s. (2), as it could scarcely be said to be "necessary" to divest the land of them, unless an additional value were thereby secured.

A double allowance is really made here; the full site value is ascertained from the gross value by deducting the depreciation caused by the presence of unsuitable buildings or timber. A similar deduction must be made from total value to arrive at site value, sub-s. (4) (a). It would seem also that nothing is to be added for the value of the buildings and timber when removed.

The provision as to improving the value of the land for agriculture should be carefully noted. In sub-s. (4) (b) it is expressly laid down that no allowance will be made for the value of works executed or expenditure incurred for the purpose of improving the value of the land for agriculture. This is qualified, however, in the paragraph following (e), which allows a deduction in respect of so much of the said works and expenditure, which, while improving the agricultural value, have also improved the land as building land, or for any business, trade, or industry other than agriculture. Under this head would probably come, to a certain extent, draining, fencing, levelling, and reclamation.

The inclusion of a fee farm rent in the term "fixed charge" would seem to lead to a curious result. On the 30th day of April, 1909, a piece of land is held in fee subject to the payment of a yearly fee farm rent of £100. The gross value of the land is ascertained to be £4000, and the full site value £2500. That is to say, the value of the buildings, etc., is £1500. Now, if there are no restrictive covenants, no easements, and no fixed charges save the fee farm rent of £100 per annum, the existence of this fixed charge, at twenty-five years' purchase, reduces the gross value by £2500; that is to say, the total value is £1500, and the assessable site value is nil. If, however, on the same date the same piece of land was held for 10,000 years at the yearly rent of £100, no deduction could be made in respect of this rent as a fixed

**Sect. 25.** charge; the total value would be £4000 and the assessable site value £2500.

If the land is undeveloped land, as to which see Chap. IV.—that is to say, if the gross value is £2500 and the full site value £2500, there will be no undeveloped land duty payable in the first case, but in the second case duty will be payable annually on £2500.

To sum up, therefore, the assessable site value is the market value of the fee simple of the cleared site as it could be sold by the owner free from incumbrances, less the portion of such value as can be ascribed to work of, or expenditure by, the owner. But regard must be had to the foregoing remarks on land held in fee farm.

Sub-s. (5) states that the provisions of the section are not applicable to minerals, which are dealt with in sects. 20 to 24.

It will be convenient to state here that the original total value and the original site value as defined in sect. 27 are respectively the total value and the site value of the land as on the 30th day of April, 1909.

It should be carefully noted that whatever may be the interest in the land that is being dealt with, whether it is a leasehold interest of, say, twenty-five years, a lease for a life, or the fee simple, the values to be ascertained are invariably the values of the fee simple; the duties are assessed on these values, and the duties are subsequently adjusted to suit the duration, or probable duration, of the particular interest being dealt with.

As will appear later, so far as regards increment value duty, it is in the interest of any one interested in the land to have as high as possible an original site value; so far as regards undeveloped land duty, the original site value, from the owner's point of view, should be fixed as low as possible.



## CHAPTER II.

### INCREMENT VALUE DUTY.

#### *Duty on Increment Value.*

1. Subject to the provisions of this Part of this Act, there shall be charged, levied, and paid on the increment value of any land a duty, called increment value duty, at the rate of one pound for every complete five pounds of that value accruing after the thirtieth day of April nineteen hundred and nine, and—

Sect. 1.  
——  
Duty on  
increment  
value.

(a) on the occasion of any transfer on sale of the fee simple of the land or of any interest in the land, in pursuance of any contract made after the commencement of this Act, or the grant, in pursuance of any contract made after the commencement of this Act, of any lease (not being a lease for a term of years not exceeding fourteen years) of the land; and

(b) on the occasion of the death of any person dying after the commencement of this Act, where the fee simple of the land or any interest in the land is comprised in the property passing on the death of the deceased within the meaning of sections one and two, sub-section (1) (a), (b), and (c), and sub-section three, of the Finance Act, 1894, as amended by any subsequent enactment; and

57 & 58 Vict.  
c. 30.

(c) where the fee simple of the land or any interest in the land is held by any body corporate or by any body unincorporate as defined by section twelve of the Customs and Inland Revenue Act, 1885, in such a manner or on such permanent trusts

48 & 49 Vict.  
c. 51.

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that the land or interest is not liable to death duties, on such periodical occasions as are provided in this Act,

the duty, or proportionate part of the duty, so far as it has not been paid on any previous occasion, shall be collected in accordance with the provisions of this Act.

Increment value is defined by the next section as the amount by which the site value of the land on the occasion when the increment value duty is to be collected exceeds the original site value.

Increment value duty is payable upon the following occasions: (1) Upon the transfer on sale, after the 29th day of April, 1910, of the fee simple of, or any interest in, land; (2) upon the grant, after the 29th day of April, 1910, of a lease for a term of more than fourteen years, and (3) upon the death, after the 29th day of April, 1910, of any one on whose death the fee simple of, or any interest in, land passes within the meaning of certain sections of the Finance Act, 1894. If an agreement for such transfer or grant was made on or before the 29th day of April, 1910, no duty is payable. To meet the case of bodies corporate or unincorporate, land held by which would escape the payment of duty on death, duty is to be paid, in addition to the occasions in (1) and (2), on periodical occasions; this case is dealt with in sect. 6. The ascertainment of the duty upon a transfer on sale is dealt with in sect. 2, sub-s. (2) (a) and (b), upon the grant of a lease in sect. 2, sub-s. (2) (b), upon death in sect. 2, sub-s. (2) (c), and upon the periodical occasions in the case of bodies corporate or unincorporate in sect. 6.

The words "transfer on sale" are not defined by the Act, but it may be assumed that roughly they mean a transfer for other than a nominal consideration, though such consideration need not necessarily be in cash. They would, it seems, include an exchange, a foreclosure, but not a conveyance by way of gift. As to this latter case, see the notes to sect. 5.

A curious point arises with regard to a conveyance of land subject to a fee farm rent created by such conveyance. By sect. 41 "land" does not include any "fixed charge" as defined by the Act; a "fixed charge" includes a "rent charge," which means, among other things, a "fee farm rent granted out of the land," so that neither "land" nor "interest

in land" includes a fee farm rent. The result is that no duty is payable by the owner of a fee farm rent in respect of such fee farm rent on any of the occasions mentioned in the section, although the value of the rent might possibly rise to such an extent as would render it, if land or an interest in land, liable to duty. There would seem to be some doubt even whether duty is payable on the creation of the fee farm rent; seeing, however, that the fee simple of the land is transferred to the grantee by way of sale, the consideration taking the form of a perpetual yearly payment, the words "transfer on sale" would appear to apply to such a transaction, and duty would be payable.

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Land is defined in the first paragraph of sect. 41 as not including any incorporeal hereditament issuing or granted out of the land, and the fee simple as meaning the fee simple in possession not subject to any lease, but not including an undivided share in a fee simple in possession.

An interest in land is defined in the sixth paragraph of sect. 41. It includes, among other things, a reversion expectant on the determination of a lease; it does not include a leasehold interest under a lease when the term of years granted by the lease does not exceed fourteen years, but presumably includes any unexpired term of years, whether exceeding fourteen years or not, when the term granted by the lease originally exceeded fourteen years.

An interest in land is also defined as not including any tenancy which is deemed to be subject to statutory conditions under the Land Law (Ireland) Acts. Under the Land Law Ireland Act, 1881, a tenancy is subject to statutory conditions (a) when the landlord demands an increase of rent from the tenant of a present tenancy, or demands an increase of rent from the tenant of a future tenancy, and the tenant in either of such cases accepts such increase, sect. 4 (1); (b) when a fair rent is fixed by the Court in the case of a present tenancy, sect. 8 (1); (c) when a fair rent is fixed by agreement, and the agreement is filed in Court, sect. 8 (6); (d) when a fair rent is fixed by arbitration, sect. 40. It must be noted, however, that the land included in such a tenancy is not excluded from the operation of the Act, and will have to be valued like all other agricultural land; increment value duty will not be payable upon the death of the tenant or the sale of his interest in the holding, but all dealings by the

**Sect. 1.** person in receipt of the rents and profits, including a sale to the tenant, will be liable for duty as in the case of other land.

As to the payment of increment value duty upon the bonus payable to a landlord upon a sale to his tenants under the Land Purchase (Ireland) Acts, see the notes to sect. 2.

As to undeveloped land duty upon such land, see the notes to sect. 17, sub-s. (5).

Sub-s. (b) provides that increment value duty shall be payable on exactly the same occasions as estate duty is now payable, and in this connection it may be noted that sect. 59 of the Act provides that in the case of persons dying on or after the 30th day of April, 1909, gifts *inter vivos*, unless made before the 30th day of April, 1908, or made or effected for public or charitable purposes (in which case the twelve months' limit will still apply) will not escape the payment of estate duty, and consequently also increment value duty, unless made three years prior to the death of the donor.

The sections of the Finance Act, 1894, referred to in the subsection, are as follows:—

1. In the case of every person dying after the commencement of this Part of this Act, there shall, save as hereinafter expressly provided, be levied and paid, upon the principal value ascertained as hereinafter provided of all property, real or personal, settled or not settled, which passes on the death of such person a duty called "estate duty," at the graduated rates hereinafter mentioned, and the existing duties mentioned in the First Schedule to this Act shall not be levied in respect of property chargeable with such estate duty.

2. (1) Property passing on the death of the deceased shall be deemed to include the property following, that is to say—

(a) Property of which the deceased was at the time of his death competent to dispose :

(b) Property in which the deceased or any other person had an interest ceasing on the death of the deceased, to the extent to which a benefit accrues or arises by the cesser of such interest ; but exclusive of property the interest in which of the deceased or other person was only an interest as holder of an office, or recipient of the benefits of a charity, or as a corporation sole :

(c) Property which would be required on the death of the deceased to be included in an account under sect. 38 of the Customs and Inland Revenue Act, 1881, as amended by sect. 11 of the Customs and Inland Revenue Act, 1889, if those sections were herein enacted and

extended to real property as well as personal property, and the words "voluntary" and "voluntarily" and a reference to a "volunteer" were omitted therefrom.

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3. Property passing on the death of the deceased shall not be deemed to include property held by the deceased as trustee for another person, under a disposition not made by the deceased, or under a disposition made by the deceased more than twelve months before his death where possession and enjoyment of the property was *bonâ fide* assumed by the beneficiary immediately upon the creation of the trust and thenceforward retained to the entire exclusion of the deceased, or of any benefit to him by contract or otherwise.

By sect. 22, sub-s. (1) (b) of the same Act, the expression "property passing on the death" includes property passing either immediately on the death or after any interval, either certainly or contingently, and either originally or by way of substitutive limitation, and the expression "on the death" includes "at a period ascertainable only by reference to the death."

Section 38 of the Customs and Inland Revenue Act, 1881, is as follows :—

1. Stamp duties at the like rates as are by this Act charged on affidavits and inventories shall be charged and paid on accounts delivered of the personal or movable property to be included therein according to the value thereof.

2. The personal or movable property to be included in an account shall be property of the following descriptions, viz. :—

- (a) Any property taken as a *donatio mortis causâ* made by any person dying on or after the first day of June, one thousand eight hundred and eighty one, or taken under a voluntary disposition, made by any person so dying, purporting to operate as an immediate gift *inter vivos* whether by way of transfer, delivery, declaration of trust or otherwise, which shall not have been *bonâ fide* made three months before the death of the deceased.
- (b) Any property which a person dying on or after such day having been absolutely entitled thereto, has voluntarily caused or may voluntarily cause to be transferred to or vested in himself and any other person jointly whether by disposition or otherwise, so that the beneficial interest therein or in some part thereof passes or accrues by survivorship on his death to such other person.
- (c) Any property passing under any past or future voluntary settlement made by any person dying on or after such day by deed or any other instrument not taking effect as a will, whereby an interest in such property for life or any other period determinable by reference to death is reserved either expressly or by implication to the settlor, or whereby the settlor may have reserved to himself the

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right, by the exercise of any power, to restore to himself, or to reclaim the absolute interest in such property.

3. Where an account delivered duly stamped comprises property passing under a voluntary settlement, and, upon the production of the settlement, it shall appear that the stamp duty of five shillings per centum has been paid thereon according to the amount or value of the property so passing, or any part thereof, the amount of such stamp duty shall be returned to the person delivering the account.

Sect. 11 of the Customs and Inland Revenue Act, 1889, is as follows:—

(1) Sub-s. 2 of sect. 38 of the Customs and Inland Revenue Act, 1881, is hereby amended, as follows:—

The description of property marked (a) shall be read as if the word “twelve” were substituted for the word “three” therein, and the said description of property shall include property taken under any gift, whenever made, of which property *bonâ fide* possession and enjoyment shall not have been assumed by the donee immediately upon the gift, and thenceforward retained, to the entire exclusion of the donor, or of any benefit to him by contract or otherwise:

The description of property marked (b) shall be construed as if the expression “to be transferred to or vested in himself and any other person” include also any purchase or investment effected by the person who was absolutely entitled to the property either by himself alone, or in concert, or by arrangement, with any other person:

The description of the property marked (c) shall be construed as if the expression “voluntary settlement” included any trust, whether expressed in writing or otherwise, in favour of a volunteer, and, if contained in a deed or other instrument effecting the settlement whether such deed or other instrument was made for valuable consideration or not as between the settlor and any other person, and as if the expression “such property,” wherever the same occurs, included the proceeds of sale thereof:

The charge under the said section shall extend to money received under a policy of assurance effected by any person dying on or after the first day of June one thousand eight hundred and eighty-nine, on his life, where the policy is wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of such money in proportion to the premiums paid by him, where the policy is partially kept up by him for such benefit.

(2) A return of stamp duty shall not be made under sub-section three of the said section thirty-eight by reason of, or in relation to, any account delivered on or after the first day of June one thousand eight hundred and eighty-nine.

Subsequent enactments have amended these provisions as follows :—

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The Finance Act, 1896, contains the following enactments :—

14. Where property is settled by a person on himself for life, and after his death on any other persons with an ultimate reversion of an absolute interest or absolute power of disposition to the settlor, the property shall not be deemed for the purpose of the principal Act (the Finance Act, 1894) to pass to the settlor on the death of any such other person after the commencement of this Part of this Act, by reason only that the settlor, being then in possession of the property as tenant for life, becomes, in consequence of such death, entitled to the immediate reversion, or acquires an absolute power to dispose of the whole property.

15.—(1) Where by a disposition of any property an interest is conferred on any person other than the disposer for the life of such person or determinable on his death, and such person enters into possession of the interest and thenceforward retains possession thereof to the entire exclusion of the disposer, or of any benefit to him by contract or otherwise, and the only benefit which the disposer retains in the said property is subject to such life or determinable interest, and no other interest is created by the said disposition, then, on the death of such person after the commencement of this part of the Act the property shall not be deemed for the purpose of the principal Act to pass by reason only of its reverting to the disposer in his lifetime.

(2) Where by a disposition of any property any such interest as above in this section mentioned is conferred on two or more persons, either severally or jointly, or in succession, this section shall apply in like manner as where the interest is conferred on one person.

(3) Provided that the foregoing sub-sections shall not apply where such person or persons taking the said life or determinable interest had at any time prior to the disposition been himself or themselves competent to dispose of the said property.

(4) Where the deceased person was entitled by law to the rents and profits of real property (as defined by sect. 1 of The Succession Duty Act, 1853) of his wife, and has died in her lifetime, such property shall not be deemed for the purpose of the principal Act to pass on his death by reason of her then becoming entitled to the property in virtue of her former interest.

The Finance Act, 1900, contains the following enactment :—

By sect. 11, sub-s. (1), of the Finance Act, 1900 (63 Vict. c. 7), “in the case of every person dying after the 31st day of March, 1900, property whether real or personal in which the deceased person or any other person had an estate or interest limited to cease on the death of the deceased shall, for the purpose of the Finance Act, 1894, and the Acts amending that Act, be deemed to pass on the death of the deceased, notwithstanding that that estate or interest

**Sect. 1.** has been surrendered, assured, divested, or otherwise disposed of, whether for value or not, to or for the benefit of any person entitled to an estate or interest in remainder or reversion in such property, unless that surrender, assurance, divesting, or disposition was *bonâ fide* made or effected twelve months before the death of the deceased, and *bonâ fide* possession and enjoyment of the property was assumed thereunder immediately upon the surrender, assurance, divesting, or disposition, and thenceforward retained to the entire exclusion of the person who had the estate or interest limited to cease as aforesaid, and of any benefit to him by contract or otherwise."

With regard to sub-s. (c) a body corporate includes all companies registered under the Companies Acts, and sect. 12 of the Customs and Inland Revenue Act, 1885, states that a body unincorporate includes every unincorporated company, fellowship, society, association, and trustee, or number of trustees, to or in whom respectively any real or personal property shall belong in such manner, or be vested upon such permanent trusts, that the same shall not be liable to legacy duty or succession duty. A number of bodies corporate and unincorporate are entitled to certain exemptions under sect. 35 (rating authorities), sect. 37 (charitable bodies), and sect. 38 (statutory companies).

The periodical occasions are defined by sect. 6, sub-s. (1), to be the 5th day of April in the year 1914, and in every subsequent fifteenth year.

The words "proportionate part of the duty" at the end of the section apply to the duty payable on any of the occasions enumerated in the section upon an interest in the land less than the fee simple, as sect. 3, sub-s. (3), provides that the Commissioners are to determine the proportionate part of the duty to be collected on the granting of a lease, or the transfer or passing on death of any interest in land, or on any periodical occasion in the case of an interest in land held by a body corporate or unincorporate.

If the parcel of land sold, or leased, or passing on death, forms only a portion of a piece of land of which the original site value has been ascertained, then the Commissioners under sect. 29, sub-s. (2), will have to apportion the original site value, and determine it in respect of the parcel of land being dealt with. This process is considered in the notes to sect. 29.

Consideration of the words "so far as it has not been paid upon previous occasions" is deferred until sect. 3 is reached.



*Definition of Increment Value.*Sect. 2,  
sub-s. (1).

2.—(1) For the purposes of this Part of this Act the increment value of any land shall be deemed to be the amount (if any) by which the site value of the land, on the occasion on which increment value duty is to be collected as ascertained in accordance with this section, exceeds the original site value of the land as ascertained in accordance with the general provisions of this Part of this Act as to valuation.

Definition of  
increment  
value.

(2) The site value of the land on the occasion on which increment value duty is to be collected shall be taken to be—

- (a) where the occasion is a transfer on sale of the fee simple of the land, the value of the consideration for the transfer; and
- (b) where the occasion is the grant of any lease of the land, or the transfer on sale of any interest in the land, the value of the fee simple of the land, calculated on the basis of the value of the consideration for the grant of the lease or the transfer of the interest; and
- (c) where the occasion is the death of any person, and the fee simple of the land is property passing on that death, the principal value of the land as ascertained for the purposes of Part I. of the Finance Act, 1894, and where any interest in the land is property passing on that death the value of the fee simple of the land calculated on the basis of the principal value of the interest as so ascertained; and
- (d) where the occasion is a periodical occasion on which the duty is to be collected in respect of the fee simple of any land or of any interest in any land held by a body corporate or unincorporate, the total value of the land on that occasion to be estimated in accordance with the general provisions of this Part of this Act as to valuation;

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sub-s. (2). subject in each case to the like deductions as are made,  
under the general provisions of this Part of this Act as  
to valuation, for the purpose of arriving at the site value  
of land from the total value.

(3) Where it is proved to the Commissioners on an application made for the purpose within the time fixed by this section that the site value of any land at the time of any transfer on sale of the fee simple of the land or of any interest in the land, which took place at any time within twenty years before the thirtieth day of April, nineteen hundred and nine, exceeded the original site value of the land as ascertained under this Act, the site value at that time shall be substituted, for the purposes of increment value duty, for the original site value as so ascertained, and the provisions of this Part of this Act shall apply accordingly.

Site value shall be estimated for the purposes of this provision by reference to the consideration given on the transfer in the same manner as it is estimated by reference to the consideration given on a transfer where increment value duty is to be collected on the occasion of such a transfer after the passing of this Act.

This provision shall apply to a mortgage of the fee simple of the land or any interest in land in the same manner as it applies to a transfer, with the substitution of the amount secured by the mortgage for the consideration.

An application for the purpose of this section must be made within three months after the original site value of the land has been finally settled under this Part of this Act.

This section states how the increment value is to be arrived at. The original site value, that is to say, the site value as on the 30th day of April, 1909, is taken as the basis; the site value is to be ascertained as on the occasion on which the duty is to be collected; the increment value is the amount (if any) by which such site value exceeds the original site value. If the parcel of land sold, or leased, or passing on death, forms only portion of a piece of land of which the

original site value has been ascertained, then the Commissioners, under sect. 29, sub-s. (2), will have to apportion the original site value, and determine it in respect of the parcel being dealt with. This process will be considered in the notes to sect. 29.

Provided the consideration takes the form of cash, sub-s. (2) (a) presents no difficulties, but in cases where the consideration takes other forms its cash equivalent may prove difficult to determine.

In the case of a sale by a landlord to his tenants under the Land Purchase (Ireland) Acts a difficulty is presented by the bonus payable by the State. This bonus is given partly as an inducement to sell and partly to cover the costs of sale, negotiating fee, and compensation to the landlord's agent. It would accordingly appear to be part of the consideration for the transfer, and is therefore an element to be considered in arriving at the site value at the time of sale, with the result that twenty per cent. of the bonus will generally have to be repaid to the State.

Presumably actuarial tables will easily solve the difficulties presented by (b) so far as the actual rent is concerned, but it may prove a knotty problem to find the cash value of some of the lessee's covenants. This matter is further dealt with in sect. 32.

Sect. 7, sub-s. (5), of the Finance Act, 1894, as amended by sect. 60 of the Finance (1909-1910) Act, 1910, contains the following provisions for arriving at the principal value of land for the purposes of the Finance Act, 1894 :—

The principal value of any property shall be estimated to be the price which, in the opinion of the Commissioners, such property would fetch if sold in the open market at the time of the death of the deceased.

In estimating the principal value of any property under sub-s. (5) of sect. 7 of the principal Act, in the case of any person dying on or after the thirtieth day of April, nineteen hundred and nine, the Commissioners shall fix the price of the property according to the market price at the time of the death of the deceased, and shall not make any reduction in the estimate on account of the estimate being made on the assumption that the whole property is to be placed on the market at one and the same time.

Provided that where it is proved to the Commissioners that the value of the property has been depreciated by reason of the death of the deceased, the Commissioners in fixing the price shall take such depreciation into account.

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Sect. 2.  
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It should be noted that in every case the site value of the land, that is to say, of the fee simple of the land, is to be ascertained; the increment value duty will be assessed as if the fee simple was sold or passed, and then under sect. 3, sub-s. (3), the duty will be adjusted to the value of the leasehold interest concerned. The same remarks apply to sub-s. (c). In the case of a body corporate or unincorporate, the total value has to be calculated on each periodical occasion.

It must be specially noted that in all four cases similar deductions are to be made from the value ascertained in (a), (b), (c), and (d) (which is to all intents and purposes the total value, and, indeed, is so called in (d)) as those made from total value to arrive at site value. See notes to sect. 25, sub-s. (4). These deductions may not be identical with those made in ascertaining the original site value, as further claims for deductions may have arisen since the 30th day of April, 1909. If a deduction could have been, but was not, claimed for the purpose of ascertaining the original site value, it cannot be claimed on any future occasion. See sect. 12.

Sub-s. (3) provides relief in cases where the value of property was less on the 30th day of April, 1909, than at some previous date within the preceding twenty years. It was admitted that during the last thirty years agricultural property has declined very much in value, and it was considered a hardship to impose increment value duty upon any rise which may bring it up to its former level. A limit of twenty years was imposed, however, and the relief is limited to cases where a previous higher value can be definitely ascertained, *i.e.* to cases where there has been an actual transfer on sale, or mortgage of, the fee simple of, or any interest in, the land. The consideration for the transfer, or the amount secured by the mortgage, is to be the basis for ascertaining the site value, and such site value is to be substituted for the original site value. It must be noted that the provision does not apply to land which has not been actually sold or mortgaged, and that, as the amount secured by the mortgage did not probably exceed two-thirds of the then value of the land, a fall of one-third in value would have to take place before the mortgage provisions of the section would afford any relief. It would seem to be very doubtful if the Commissioners could take the mortgagee's margin of security into consideration when ascertaining the site value

from the amount of the mortgage ; an element of uncertainty would thereby be imported into the transaction which the sub-section is intended to avoid. Sect. 2.  
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The original site value must first be finally settled, and an application to obtain the benefit of the provision must be made within three months of such settlement.

*General Provisions as to Collection of Increment Value Duty.*

3.—(1) On each occasion on which increment value duty is collected on the increment value of any land, such an amount of duty shall be deemed to be unsatisfied as the Commissioners determine, after giving credit for the amount of duty paid on previous occasions. The Commissioners shall make such apportionments and re-apportionments of any duty paid on previous occasions as they think necessary for the purpose of giving effect to this provision. General provisions as to collection of increment value duty.

(2) Where increment value duty is collected on the occasion of the transfer or passing on death of the fee simple of any land, or on any periodical occasion in the case of land held in fee simple by a body corporate or unincorporate, the whole amount of the duty which is determined to be unsatisfied shall be collected by the Commissioners in accordance with rules made by them for the purpose.

(3) Where increment value duty is collected on the occasion of the grant of a lease, or on the transfer of passing on death of any interest in land, or any periodical occasion in the case of an interest in land held by a body corporate or unincorporate, such proportionate part of the duty shall be collected as may be determined by the Commissioners to be payable in respect of the interest in land created, transferred, passing on death, or held, in accordance with rules made by them for the purpose.

(4) Where on the occasion of the death of any person the property passing on the death comprises settled land in which the deceased or any other person had an interest ceasing on the death of the deceased, then—

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sub-s. (4).

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- (a) if the subject of the settlement at the time of the death is the fee simple of the land, increment value duty shall be collected as if the fee simple of the land passed ; and
- (b) if the subject of the settlement at the time of the death is any other interest in the land, increment value duty shall be collected as if that interest passed ;

but that duty shall not be collected on any such occasion if under the provisions of section five of the Finance Act, 1894, as amended by any subsequent enactment, estate duty is not payable in respect of the settled land.

(5) For the purpose of the collection of duty on the increment value of any land under this section, the increment value shall be deemed to be reduced on the first occasion for the collection of increment value duty by an amount equal to ten per cent. of the original site value of the land, and on any subsequent occasion by an amount equal to ten per cent. of the site value on the last preceding occasion for the collection of increment value duty, and the amount of duty to be collected shall be remitted in whole or in part accordingly.

Any duty which by reason of this provision is remitted on any occasion shall not be collected and shall be deemed to have been paid :

Provided that no remission shall be given under this provision on any occasion which will make the amount of the increment value on which duty has been remitted during the preceding period of five years exceed twenty-five per cent. of the site value of the land on the last occasion for the collection of increment value duty prior to the commencement of that period or of the original site value if there has then been no such occasion.

(6) Increment value duty shall be a stamp duty collected and recovered in accordance with the provisions of this Act.

Sub-s. (1) states that credit is to be given for the amount of duty paid on previous occasions. The effect of this is not

very apparent from a perusal of the section, but it was put most clearly by the Chancellor of the Exchequer in Committee. Take an original site value of £5000, and a site value on a first sale of £6000; the increment value is £1000, and duty is paid on that value. The property is then franked for ever up to a site value of £6000. There is a second sale, when the site value falls to £5500, and the increment value is £500, but as duty has already been paid upon an increment value of £1000, no duty is payable. There is a third sale, when the site value rises to £7500. The increment value on the third sale is £2500; as the State has already received increment value duty upon £1000, it will only get duty upon the third sale on £1500, although the profit to the vendor is £2000.

Where part only of land previously dealt with is included in a subsequent transaction, an apportionment of the duty previously paid will be necessary, and the Commissioners are obliged to make such apportionment. See sect. 29.

A curious result in the case of land which is let on lease follows from the insertion of the words "so far as it has not been paid on previous occasions." On the 30th day of April, 1909, a piece of land is subject to a lease for an unexpired term of say forty years, and the original site value is £1000; in 1914 the tenant dies or sells his interest in the land, and the site value is ascertained to be £2000; the tenant will then have to pay increment value duty upon £1000 less £100, an allowance of 10 per cent. of the original site value (sect. 3, sub-s. (5)), but adjusted to his leasehold interest, say £450. Upon the owner's death subsequent to such sale the property will be franked to the extent of an increment value of £450, and his estate will escape payment of increment value duty upon this sum. If, however, the tenant neither dies nor sells his interest, the owner will be liable for increment value duty upon this sum of £450, though of course he is in no way affected by any dealings by the tenant with his interest in the land.

Sub-s. (2) provides for the Commissioners making rules for the collection of the duty on the transfer on sale, or passing on death, of the fee simple of land, or any periodical occasion where the land is held by a body.

Sub-s. (3) provides that where duty is to be collected on the grant of a lease, or the transfer on sale, or passing on

Sect. 3. death, of any interest in land, or on any periodical occasion where an interest in land is held by a body, the Commissioners shall determine the proportionate part of the duty to be collected, and shall make rules for collection of the duty.

Rules, which will be found in Appendix A., have been issued providing for the payment of the duty by instalments in the case of a lease or transfer on sale where the consideration is in the form of a periodic payment; where on a transfer on sale the consideration is a lump sum, payment of the entire duty due will presumably be necessary. The case of death is dealt with by sect. 5, and the case of periodical occasions by sect. 6, sub-s. (2).

The procedure with regard to an interest in land seems rather roundabout. The interest has to be, as it were, expanded into the fee simple, and the various values determined accordingly; the duty is then calculated in full, and afterwards reduced to suit the particular interest with which the problem started.

Sub-s. (4) deals with settled land, and provides for payment of a proportionate part of the duty in case the subject of the settlement is an interest in the land and not the fee simple. It also provides that when estate duty is not payable, the duty shall not be collected.

The provisions of sect. 5 of the Finance Act, 1894, which apply, are as follows:—

(2) If estate duty has already been paid in respect of any settled property since the date of the settlement, the estate duty shall not be payable in respect thereof, until the death of a person who was at the time of his death, or had been at any time during the continuance of the settlement, competent to dispose of such property.

(To which is added by sect. 13 of the Finance Act, 1898, the words “and who if on his death subsequent limitations under the settlement take effect in respect of such property was *sui juris* at the time of his death or had been *sui juris* at any time while so competent to dispose of the property.”)

(3) In the case of settled property, where the interest of any person under the settlement fails or determines by reason of his death before it becomes an interest in possession, and subsequent limitations under the settlement continue to subsist, the property shall not be deemed to pass on his death.

An amendment has been made by sect. 55 of this Act as follows:—

For the purpose of any claim to relief from estate duty under



sub-section (2) of section five or sub-section (1) of section twenty-one of the principal Act, in the case of persons dying on or after the thirtieth day of April nineteen hundred and nine, payment of or liability to duty, whether the payment was made or the liability attached before, on, or after that date, shall not be deemed to be a payment of or liability to duty in respect of settled property if the payment was made or the liability attached in respect of an interest in expectancy in any property on the death of a person other than the settlor.

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Sub-s. (5) makes an allowance to provide a margin for interest and profits. The increment value is to be reduced on the first occasion for collection by 10 per cent. of the original site value, and on any subsequent occasion by 10 per cent. of the site value on the last preceding occasion for the collection of the duty. Take an original site value of £1000, and a sale when the site value is ascertained to be £1600; the increment value is £600, and the duty £120; from this must be deducted £100, being 10 per cent. of the original site value, so that only £20 will be payable, but the whole £120 will be deemed to have been paid. Similarly, on a second sale the duty will be remitted to the extent of £160.

To prevent an evasion of the duty by spreading a large profit over a number of transfers each showing a small profit, the amount of increment value on which duty is remitted during a period of five years is limited to 25 per cent. of the site value on the last occasion for collection prior to the commencement of such period, or if none, then of the original site value. Take an original site value of £1000 in 1909. The land is sold in 1912, and the site value then is £1600; duty is remitted to the extent of one-tenth of £1000, *i.e.* £100, and only £20 is payable, but £120 is deemed to have been paid. The land is sold again in 1914, and the site value is then £2500; the increment value is £1500, but under sub-s. (1) credit is given for duty already paid or deemed to be paid, £120, and the increment value duty is now £180; but for the limiting proviso, a remission would be made of one-tenth of £1600, *i.e.* £160; the two amounts remitted within five years would amount to £260, which is more than £250—25 per cent. of the original site value; a total remission for the five years of only £250 can be claimed, so that only £150 will be remitted on the second sale, £100 having been

Sect. 3. previously remitted, and £30 duty will actually be payable upon the second sale.

Under sub-s. (6), the Inland Revenue Regulation Act, 1890, and the Stamp Duties Management Act, 1891, save so far as they are at variance with the provisions of the Finance (1909-10) Act, 1910, will apply to the collection and recovery of the increment value duty.

*Collection and Recovery of Duty in Cases of Transfers and Leases.*

Collection and recovery of duty in cases of transfers and leases.

4.—(1) On any transfer on sale of the fee simple of any land or of any interest in land, or on the grant of any lease of any land for a term exceeding fourteen years, increment value duty shall be assessed by the Commissioners and paid by the transferor or lessor, as the case may be.

(2) It shall be the duty of the transferor or lessor, on the occasion of any transfer on sale of the fee simple of any land or of any interest in land or on the grant of any lease of any land for a term exceeding fourteen years, to present to the Commissioners, in accordance with regulations made by them, the instrument by means of which the transfer or the lease is effected or agreed to be effected or reasonable particulars thereof for the purpose of the assessment of duty thereon, and, if the transferor or lessor fails to comply with this provision, he shall be liable on summary conviction to a fine not exceeding ten pounds, and to pay interest at the rate of five per cent. per annum on any duty ultimately payable by him as from the date on which the instrument has been executed, but any person aggrieved by any conviction or order of a court of summary jurisdiction under this provision may appeal therefrom to a court of quarter sessions.

(3) Any such instrument shall not, for the purposes of section fourteen of the Stamp Act, 1891, and notwithstanding anything in section twelve of that Act, be deemed to be duly stamped unless it is stamped—

(a) either with a stamp denoting that the increment

value duty has been assessed by the Commissioners and paid in accordance with the assessment; or

Sect. 4,  
sub-s. (3).

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(b) with a stamp denoting that all particulars have been delivered to the Commissioners, which, in their opinion, are necessary for the purpose of enabling them to assess the duty, and that security has been given for the payment of duty in any case where the Commissioners have required security; or

(c) with a stamp denoting that upon the occasion in question no increment value duty was payable; but where an instrument is so stamped, it shall, notwithstanding any objection relating to the increment value duty, be deemed to be duly stamped so far as respects that duty.

(4) Any duty assessed by the Commissioners under this section shall be a debt due to the Crown from the transferor or lessor, as the case may be, and for the purpose of calculating the amount of increment value duty to be collected on any subsequent occasion shall be deemed to have been paid.

(5) Regulations may be made by the Commissioners with respect to the mode in which any instrument is to be presented to them in order to be dealt with under this section, and for dispensing with the presentation of any instrument, or particulars thereof, in cases where arrangements are made for obtaining those particulars through any registry of lands, deeds, or title, or through a Register of Sasines, and with respect to the mode in which any application for a return of duty under this section is to be made, and for the payment of any increment value duty by instalments in the case of any lease or transfer on sale where the consideration is in the form of a periodical payment; and the Commissioners shall deal with any instrument presented to them and allow payment by instalments in accordance with those regulations. The regulations shall provide that where the duty to be collected on the grant of a lease is payable by instalments,

**Sect. 4,** and the lease is determined before all such instalments  
**sub-s. (5).** have fallen due, the instalments which have not fallen  
— due shall be remitted, and that in that case the amount  
of duty which, under this section, is deemed to have been  
paid shall be reduced by the amount of the instalments  
so remitted.

(6) In any case where increment value duty shall have been paid under the provisions of this section, but the transaction in respect of which the duty shall have been paid was subsequently not carried into execution, the duty shall be returned to the transferor or lessor on his making application to the Commissioners within two years after the payment of the duty in accordance with regulations to be made by them under this section, and in that case the duty returned shall not be deemed to have been paid for the purposes of this section.

(7) Where any agreement for a transfer or agreement for a lease is stamped in accordance with this section, it shall not be necessary to stamp any conveyance, assignment, or lease made subsequently to and in conformity with the agreement, but the Commissioners shall, if an application is made to them for the purpose, denote on the conveyance, assignment, or lease the amount of duty paid.

This section provides for the assessment and collection of increment value duty upon any transfer on sale, or the grant of a lease for a term exceeding fourteen years. Sect. 5 deals with the duty payable on death, and sect. 6 with the duty payable on periodical occasions by a body corporate or unincorporate.

Sub-s. (1) states that the Commissioners are to assess the duty and that the transferor or lessor, as the case may be, is to pay same. There is no prohibition, however, against an agreement being entered into between the parties that the transferee or lessee is to repay the amount to the transferor or lessor; but the Crown will recover the amount from the first named, and in no case will the land be liable for the duty or any part of same in arrear.

Sub-s. (2) throws the obligation on the transferor or lessor of presenting to the Commissioners, in accordance with

Sect. 4.  

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regulations made by them, the instrument by which the transfer or lease is effected or agreed to be effected, or reasonable particulars thereof. The words "or agreed to be effected" complicate the matter considerably; with regard to a lease, this is defined as including an agreement for a lease, and the words would appear to be surplusage, and it would seem that every agreement for a lease must be presented to the Commissioners and stamped with one or other of the stamps enumerated in sub-s. (3). This is in conformity with the law that an agreement for a lease must be stamped as if it were the lease itself. It is with regard to transfers on sale that a new practice has been rendered necessary; in sub-s. (3) the words "any such instrument" must include the instrument by which the transfer is agreed to be effected in sub-s. (2). So that no agreement for sale, including the ordinary form of agreement at the end of Conditions of Sale signed by a purchaser at an auction, will be properly stamped unless it is presented to the Commissioners for assessment, and therefore if an action for specific performance of such an agreement has to be brought, the agreement should be presented to the Commissioners and have one of the stamps mentioned in the next sub-section affixed to it.

The regulations for presenting the instrument or reasonable particulars thereof will be found in Appendix A., and the forms which when filled up must accompany every instrument presented for assessment will be found in the Appendices B. and C.

From an inspection of these forms it is apparent that not only is there a very small chance of reasonable particulars being accepted, but that information must be given which is not always afforded by the transfer or lease itself. In practice a sub-lease very often merely refers to the exceptions and reservations and covenants in the lease out of which it carved, but does not set them out verbatim; the Commissioners however insist on a full statement of these being supplied, entailing possibly a large amount of trouble and expense.\*

Failure to comply with this obligation, whether through an oversight or not, renders the transferor or lessor liable on summary conviction to a fine not exceeding £10 and to interest at five per cent. per annum on the duty ultimately payable. If the particulars are not furnished it would seem impossible for

\* See, however, supplemental instructions, Appendix H., page 183.

Sect. 4. the Commissioners to assess the duty, but the transferee or lessee will certainly see that these particulars are furnished ; otherwise his document of title will not be properly stamped ; in any event the £10 fine could always be imposed. This is an entirely novel feature in the collection of stamp duties, and a vigorous, but unavailing, protest was made against it in the discussion in Committee ; the disability attaching to an unstamped document, prior to the passing of this Act, is explained in the remarks on sub-s. (3).

Sub-s. (3) provides for affixing of one of three stamps denoting (a) that the duty has been assessed and paid, (b) that all necessary particulars have been furnished, and that security for payment, if required, has been given, or (c) that no duty is payable.

It should be noted that this Act does not confer any powers upon the Commissioners to require security for payment of duty, and does not provide for any regulations to be made by them in relation to giving security, but this subsection would appear to give them power to refuse to affix stamp (b) unless they are satisfied in this respect. Sect. 16, III. and IV. of the Regulations in Appendix A. deals with the matter of security.

Unless an instrument is stamped with one or other of the above three stamps it will not be stamped for the purpose of sect. 14 of the Stamp Act, 1891, of which the following subsections apply :—

(1) Upon the production of an instrument chargeable with any duty as evidence in any Court of civil judicature in any part of the United Kingdom, or before any arbitrator or referee, notice shall be taken by the judge, arbitrator, or referee of any omission or insufficiency of the stamp thereon, and if the instrument is one which may be legally stamped after the execution thereof, it may, on payment to the officer of the Court whose duty it is to read the instrument, or to the arbitrator or referee, of the amount of the unpaid duty, and the penalty payable on stamping the same, and of a further sum of one pound, be received in evidence, saving all just exceptions on other grounds.

(4) Save as aforesaid, any instrument executed in any part of the United Kingdom, or relating, wheresoever executed, to any property situate, or to any matter or thing done or to be done, in any part of the United Kingdom, shall not, except in criminal proceedings, be given in evidence, or be available for any purpose whatever, unless it

is duly stamped in accordance with the law at the time when it was first executed.

**Sect. 4.**

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If, therefore, it is desired to put such an unstamped instrument in evidence, it would appear that an assessment of the increment value duty would have to be made on the spot by the Court or arbitrator.

Sub-s. (4) provides that increment value duty on transfer, on sale, or grant of a lease shall be a debt due to the Crown. The effect of this is that under the Preferential Payments in Bankruptcy Act, 1888, as regards England, the Crown will rank among the preferential creditors of a bankrupt to the extent of one year's assessment of the duty assessed on the above occasions up to the 5th day of April immediately preceding the receiving order. This Act does not apply to Ireland, and the corresponding Irish Act does not deprive the Crown of its priority over a subject, so that the Crown's claim must be paid in priority to all debts, preferential or otherwise.

Under the Companies (Consolidation) Act, 1908, as regards both England and Ireland, the Crown will rank preferentially in the winding up of a limited company to the extent of one year's assessment of the duty assessed on the above occasions up to the 5th day of April immediately preceding the winding-up order or commencement of the winding-up.

As increment value duty is not an annual duty, it is difficult to say how the words "one year's assessment" will be applied, but it is submitted that they mean the whole of the duty assessed within the year specified above. Sect. 16, V. of the Regulations in the Appendix, states that if the person liable to the payment of duty by instalments becomes bankrupt, the whole balance of the duty unpaid shall forthwith be payable.

The regulations for presentation referred to in sub-s. (5) have been considered under sub-s. (2). No arrangements have yet been made for the Commissioners obtaining particulars except from the transferor or lessor in England or Wales. Sect. 19, I. of the Regulations in Appendix A., deals with Scotch cases, and sect. 20 states that no particulars need be presented in the case of conveyances on sale of lands to which the Land Purchase (Ireland) Acts apply, if the

Sect. 4. conveyance is presented to the Registrar of Titles in the ordinary course. A similar concession is not made in the case of lands registered in the Deeds Registry, the reason being that the memorial which is registered in the Deeds Registry would certainly not give the Commissioners all the particulars which they seem to require.

In the case of a sale of a tenancy to which the statutory conditions under the Land Law (Ireland) Acts apply (see notes to sect. 1) the instrument of transfer need not be presented, as the subject-matter of the transfer is not an interest in land, and is exempted from the Act.

The sub-section also provides for the making of regulations for payment of the duty by instalments in the case of a lease or transfer on sale where the consideration is a periodical payment. These regulations will be found in sect. 7 of Appendix A.

The sub-section also provides that if a lease is determined all instalments falling due after the determination shall be remitted, but the lessor will not get credit for the amount so remitted on the next occasion when duty is payable. This provision would appear to apply to a surrender, or forfeiture, or eviction of the lease, as none of these cases are excluded.

Sub-s. (6) provides that where a transaction is not carried into execution, the duty paid, if applied for within two years after payment, is to be returned, but without interest. This would appear to apply to the case where duty has been paid upon an agreement for transfer on sale, but the transfer has not been completed, and to extend the remedy given by sub-s. (5) when the agreement for a lease is cancelled by consent of the parties.

Sub-s. (7) provides for the Commissioners denoting, upon request, on a conveyance or lease, the amount of duty paid upon an agreement for such conveyance or lease. It does not provide for denoting on a conveyance or lease that the duty has been paid when the conveyance or agreement for sale, or lease or agreement for lease, was originally stamped with the stamp described in sub-s. (3) (b), and the assessed duty has been actually paid, nor does it provide for denoting on a lease or agreement for lease that the duty has been paid when the last instalment under sub-s. (5) has been paid.

Sect. 7 of the regulations in Appendix A. provides that a stamp corresponding with the stamps set out in sub-s. (3) will



be impressed on a conveyance, assignment, or lease, made in conformity with an agreement which bears such stamp, or with a duplicate instrument being so impressed.

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It should be noted that the instrument of transfer of land or an interest in land or lease, must always be presented, whether duty is payable or not. If no duty is payable, a stamp to that effect will be affixed. However, if the lease is for fourteen years or less, such lease or assignment thereof need not be presented, for it is not a lease or transfer of an interest in land within the definition of the Act. In the same way an assignment of a tenancy in Ireland to which the statutory conditions apply (see p. 11) need not be presented, for such an assignment is not a transfer of an interest in land as defined by the Act.

*Collection and Recovery of Duty in Case of Death.*

5. The provisions as to the assessment, collection, and recovery of estate duty under the Finance Act, 1894, shall apply as if increment value duty to be collected on the occasion of the death of any person were estate duty; but, where any interest in land in respect of which increment value duty is payable is property passing to the personal representative as such, the duty shall be payable out of that interest in land in exoneration of the rest of the deceased's estate, and shall be collected upon an account to be delivered by the personal representative, setting forth the particulars of the increment value in respect of the property :

Collection and recovery of duty in case of death. 57 & 58 Vict. c. 30.

Provided that in respect of all property of the deceased, other than that assessed to increment value duty, the Crown shall, as a creditor in respect of such increment value duty, rank *pari passu* with the other creditors of the deceased.

The previous section dealt with the cases of transfers on sale and grants of leases, and this section deals with property passing on death. It provides that the duty shall be assessed, collected, and recovered as if it were estate duty; in the case of property passing to the personal representative as such, the duty will be collected upon an account to be delivered by the

Sect. 5. personal representative, which is to set forth the particulars of the increment value, and this account must be delivered with the Inland Revenue affidavit of the assets of the deceased.

Sect. 2, sub-s. (2) and (3) state that the duty shall be collected in accordance with rules to be made for the purpose, but it is very doubtful if these rules could provide for the payment of the duty on leasehold property in any other way than that in which estate duty has to be paid, namely, in one sum, with interest at 3 per cent. per annum from the date of death. The regulations in Appendix A. are silent on this point. It would seem that the increment value duty in respect of leasehold property is payable out of such portion of the deceased's property as is primarily liable for the payment of estate duty, and not by the person to whom such leasehold property is bequeathed.

In the case of freehold property—and the regulations above mentioned make no provision to the contrary—the increment value duty may be paid in one sum within twelve months from death, or in eight yearly instalments or sixteen half-yearly instalments, the first instalment to be paid twelve months after death. The unpaid duty must be paid if the property is sold.

The duty on freehold property, or property passing to the executor as such, is payable out of the property in respect of which it is payable, in exoneration of the rest of the deceased's estate; if the Crown has to have recourse to property of the deceased other than that assessed to increment value duty, it is to rank *pari passu* with the other creditors of the deceased, and presumably secured creditors would have priority over the Crown.

In the case of a gift *inter vivos*, and the donor dies within three years of making the gift, the donee will on the death of the donor be liable for the increment value duty then payable, and any purchaser for value from the donee will be similarly liable, and will have to furnish the necessary particulars to the Commissioners.

In this connection it should be noted that the assessment of increment value duty on death will probably result in a larger yield from the death duties than has hitherto been the case. Sect. 2, sub-s. (2) states that the site value is to be the principal value as ascertained for the purpose of assessing

the death duties, less the allowances mentioned in the subsection. Hitherto every effort has been made to keep down this principal value as low as possible, but in future, in any event until the original site value has been ascertained, the principal value will have to be somewhere near the real market value; otherwise, if the land is subsequently sold or leased at its market value, the increment value will be high, and duty at 20 per cent. upon this increment value will have to be paid. Of course this risk will not exist if the property has been already franked up to its proper value, as explained on p. 23.

Sects. 60, 61, and 62 effect changes of great importance with regard to estate duty, and they should be noted so far as they affect increment value duty.

Sect. 60 provides that agricultural property passing on a death after the 30th day of April, 1910, shall be valued at its market price, and shall no longer get the benefit of the proviso to sect. 7, sub-s. (5) of the Finance Act, 1894. The principal value will therefore be for the future the market value of the land, and the increment value will be increased accordingly.

Sect. 61 provides that land subject to an annuity under the Land Purchase (Ireland) Acts shall be treated as real property for the purpose of the payment of estate duty (and therefore also increment value duty) by instalments.

Sect. 61 also provides that estate duty (and therefore also increment value duty) upon the purchase money of land sold under the Land Purchase (Ireland) Acts need not be paid until the purchase money is actually paid. If the bonus is to be added to the purchase money to arrive at the principal value, a claim for increment value duty will in all probability arise.

Sect. 62 provides that any increment value duty payable shall be treated as a debt of the deceased in ascertaining the value of the estate upon which estate duty is to be paid.

For special instructions as to payment of the duty on death, see Appendix G., page 182.

*Collection and Recovery of Duty in Case of Property held  
by Bodies Corporate or Unincorporate.*

6.—(1) Where the fee simple of any land or any interest in land is held by any body corporate or by any body unincorporate, as defined by section twelve of the Customs and Inland Revenue Act, 1885, in such a manner or on such permanent trusts that the land or interest is not liable to death duties, the occasions on which increment

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Collection  
and recovery  
of duty in  
case of pro-  
perty held by  
bodies cor-  
porate or un-  
incorporate,

Sect. 6, value duty is to be collected shall be the fifth day of  
 sub-s. (1). April in the year nineteen hundred and fourteen and in  
 — every subsequent fifteenth year.

(2) The account to be delivered under section fifteen  
 48 & 49 Vict. of the Customs and Inland Revenue Act, 1885, shall, in  
 c. 51. the case of the account to be delivered in the year nineteen hundred and fourteen and in every subsequent fifteenth year, contain an account of the increment value of the land, as on the preceding fifth day of April, and that section shall, save as in this Act is hereafter provided, apply for the purpose of increment value duty, whether the body corporate or unincorporate are chargeable with duty under Part II. of the Customs and Inland Revenue Act, 1885, or not.

(3) The provisions of sections thirteen to eighteen, of sub-section (1) of section nineteen, and of section twenty of the Customs and Inland Revenue Act, 1885 (with the exception of any provisions relating to appeals), shall have effect for the purpose of the assessment and recovery of increment value duty as they have effect for the purpose of the duty charged under section eleven of that Act:

Provided that increment value duty may, if the body corporate or unincorporate chargeable therewith so desire, be paid by fifteen equal yearly instalments, and the first instalment shall be due immediately after the assessment of the duty.

Any part of any duty so payable by instalments may be paid up at any time.

(4) Any increment value duty assessed by the Commissioners on an account delivered in accordance with this section shall, for the purpose of determining the amount of increment value duty to be collected on any subsequent occasion, be deemed to have been paid.

(5) Nothing in this section shall affect the collection of increment value duty on the occasion of the grant of any lease or the transfer on sale of the fee simple of any land or any interest in land by a body corporate or unincorporate, or oblige an account to be delivered of the increment value of any land on any periodical occasion,

if, under the subsequent provisions of this Part of this Act, increment value duty in respect thereof is not to be collected on that occasion. Sect. 6,  
sub-s. (5).

This section applies to the bodies enumerated in the notes to sect. 1, sub-s. (c), as the previous one does to individuals. Sub-s. (1) states that increment value duty is to be collected from them on the 5th day of April, 1914, and in every subsequent fifteenth year, in respect of any land or interest in land held by them on such date.

With reference to the account mentioned in sub-s. (2), sect. 15 of the Customs and Inland Revenue Act, 1885, is as follows :—

15.—(1) Every body corporate or unincorporate chargeable with the duty hereby imposed shall, on or before the first day of December in the year one thousand eight hundred and eighty-five, and on or before the first day of October in every subsequent year, deliver, or cause to be delivered to the Commissioners or their officers, a full and true account of all property in respect whereof any such duty shall be payable, and of the gross annual value, income, or profits thereof accrued to the same body in the year ended on the preceding fifth day of April, and of all deductions claimed in respect thereof, whether by relation to any of the before-mentioned exemptions from such duty or as necessary outgoings.

(2) The account shall be made in such form and shall contain all such particulars as the Commissioners shall, by any general or special notice, require, or as shall be necessary or proper for enabling them fully and correctly to ascertain the duty due, and every accountable officer hereinbefore made answerable for payment of duty in respect of any property chargeable under this Act, shall be answerable also for the delivery to the Commissioners of such full and true account as aforesaid of and relating to such property.

This account must now, on the periodical occasions, contain an account of the increment value of the land, and must be in the form prescribed by, and contain the particulars required by, the Commissioners to enable them to assess the duty.

The sections of the Customs and Inland Revenue Act, 1885, referred to in sub-s. 3, omitting the portions thereof which refer to appeals, are as follows :—

13. The duty hereby imposed shall be considered as a stamp duty, and shall be under the care and management of the Commissioners of Inland Revenue, hereinafter called the Commissioners, who by themselves and their officers shall have the same powers and authorities

**Sect. 6.**  
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for the collection, recovery, and management thereof as are vested in them for the collection, recovery, and management of the succession duty, and shall have all other powers and authorities necessary for carrying this Act into execution.

14. The duty hereby imposed shall be a first charge on all the property in respect whereof the same shall be payable while such property shall remain in the possession or under the control of the body corporate or unincorporate chargeable with such duty, or any party or parties acquiring the same, with notice of any such duty being in arrear, and every such body corporate or unincorporate, and every accountable officer, shall, to the full extent thereof, be answerable to Her Majesty for the payment of duty charged thereon.

16. Every accountable officer shall be at liberty to retain or raise out of any moneys of any body corporate or unincorporate which shall be held by him, or shall come to his hands, the full amount of all moneys which he shall pay or have paid on account of the duty hereby imposed, and all reasonable expenses incident to such payments.

17.—(1) It shall be lawful for the Commissioners to assess the duty upon the footing of any account rendered to them, or if dissatisfied with such account to cause an account to be taken by any person or persons appointed by themselves for that purpose, and to assess the duty on the footing of such last-mentioned account.

(2) If the duty so assessed shall exceed the duty assessable according to the account rendered to the Commissioners, and with which they shall have been dissatisfied, then it shall be in the discretion of the Commissioners, having regard to the merits of each case, to charge the whole or any part of the expenses incident to the taking of such last-mentioned account or any funds liable to such duty as an addition thereto and part thereof, and to recover the same accordingly.

(3) The duty shall be payable immediately after the assessment.

18.—(1) Every body corporate or unincorporate, and every accountable officer hereby required to deliver any such account as aforesaid, and wilfully neglecting so to do on or before the first day of December in the present year, or on or before the first day of October in any subsequent year, shall be liable to pay to Her Majesty a sum equal to ten pounds per centum upon the amount of duty payable in respect of the property required to be comprised in such account, and a like penalty for every month after the first month during which such neglect shall continue.

19.—(1) The Commissioners shall, for the purposes of this part of this Act, have the same powers in relation to proceedings to enforce the delivery of accounts, and in relation to the verification of accounts, and the production and inspection of books and documents as they have in relation to succession duty under the law now in force.

20. In the case of any proceeding in any Court for the administration of any property chargeable with duty under this Act, such Court

shall provide out of any such property in its possession or control for the payment to the Commissioners.

Sect. 6.

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The sub-section provides that the duty may, at the option of the body, be paid by fifteen equal yearly instalments, the first to be paid immediately after the assessment. No interest would appear to be payable on the unpaid instalments. Security need not be given for payment of the instalments, as in this particular case the land is charged with payment of the duty, under sect. 14 of the Customs and Inland Revenue Act, 1885, above.

Sub-s. (4) corresponds with sect. 4, sub-s. (4); the mere fact of its nonpayment is not to affect the duty payable on any subsequent occasion.

Sub-s. (5) provides for payment of increment value duty if the body transfers any land or interest in land or grants a lease. In such case the purchaser or lessee would, of course, call upon the body to pay up the unpaid instalments, as they are a first charge upon the land.

It also provides that the bodies included in sects. 35, 38, and 39 of the Act need not deliver the account mentioned in sub-s. (2) in respect of the land exempted by such sections, and that no account need be delivered in respect of exempted land.

### *Exemption for Agricultural Land.*

7. Increment value duty shall not be charged in respect of agricultural land while that land has no higher value than its market value at the time for agricultural purposes only: Exemption for agricultural land.

Provided that any value of the land for sporting purposes, or for other purposes dependent upon its use as agricultural land, shall be treated as value for agricultural purposes only, except where the value for any such purpose exceeds the agricultural value of the land.

This much debated section gives a certain measure of relief to agricultural land. In sect. 41 agriculture is stated to include the use of land as meadow or pasture land, orchard, osier or woodland, or for market gardens, nursery grounds, or allotments; it certainly also includes arable land. Sect. 7 also provides that any value of the land for sporting purposes, or for other purposes dependent upon its use as agricultural

Sect. 7. land (the combined value of which is referred to below as the sporting value), shall be treated as value for agricultural purposes only, except where such sporting value exceeds the agricultural value.

The effect of the section is therefore as follows: when the agricultural value exceeds the sporting value, then, unless the building value exceeds the agricultural value plus the sporting value, the land will be exempt from increment value duty, and will be so exempt even if the agricultural value is greater than the building value owing to the land being near a town.

If the agricultural value is less than the sporting value, then, whatever the building value may be, the land will be liable to increment value duty. This would apply in the case of a deer forest or grouse moor.

It should be noted that the duty, if chargeable, will be charged upon the entire increment value, and no allowance will be made for the agricultural value. Suppose a piece of agricultural land having an original site value of £50 and an agricultural value of the same amount. The owner, by executing works and incurring expenditure in the erection of farm buildings or otherwise, increases the agricultural value to £200 (but such works and expenditure do not increase the building value except to a very small extent), and then dies. At the same time the land suddenly acquires a building value of £250; the increment value will be £200, and duty will have to be paid on that amount less an allowance of £5, being 10 per cent. of the original site value, and a further (probably very small) allowance for the improvement in building value attributable to his agricultural work and expenditure. No deduction will be made for the increase in agricultural value brought about by the owner's efforts.

In arriving at the market value for agricultural purposes, it appears, from a consideration of the discussion in Committee, that the proximity value of the land is part of such market value, but that the possibility of the land being required for building at some future time must not be taken into account. Conversely, in estimating the building value, the agricultural value of the land while awaiting building development must not be reckoned.

The unqualified exemption of certain agricultural holdings in Ireland has already been considered in the notes to sect. 1,



and the exemption of small holdings will be dealt with in the next section.

Sect. 7.

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It should also be noted that sect. 2, sub-s. (3), will apply to a large quantity of agricultural land, and will afford a certain amount of relief.

Agricultural land, irrespective of its different values, will not escape the provisions as to valuation; the original site value will have to be determined, as the land may some day pass out of the agricultural category and become building land. It will also be subject to the periodical valuations for undeveloped land duty under sect. 28. It should also be noted that the duty which would have been paid but for this section is not deemed to have been paid.

*Exemption of Small Houses and Properties in Owner's Occupation.*

8.—(1) Increment value duty shall not be charged on the increment value of any land, being the site of a dwelling-house, where immediately before the occasion on which the duty is to be collected the house was, and had been for twelve months previously, used by the owner thereof as his residence, and the annual value of the house, as adopted for the purpose of income tax under Schedule A., does not exceed—

Exemption of small houses and properties in owner's occupation.

- (a) in the case of a house situated in the administrative county of London, forty pounds; and
- (b) in the case of a house situated in a borough or urban district with a population according to the last-published Census for the time being of fifty thousand or upwards, twenty-six pounds; and
- (c) in the case of a house situated elsewhere, sixteen pounds.

(2) Increment value duty shall not be charged on the increment value of any agricultural land where, immediately before the occasion on which the duty is to be collected, the land was, and had been for twelve months previously, occupied and cultivated by the owner thereof, and the total amount of that land, together with any other land belonging to the same owner, does not exceed

Sect. 8. fifty acres, and the average total value of the land does  
sub-s. (2). not exceed seventy-five pounds per acre :

— Provided that the exemption under this provision shall not apply to any land occupied together with a dwelling-house the annual value of which, as adopted for income tax under Schedule A., exceeds thirty pounds.

(3) Where a dwelling-house is valued for the purposes of income tax under Schedule A. together with other land, and it is necessary for the purpose of this section to determine the annual value of the dwelling-house, the total annual value shall be divided between the dwelling-house and the other land in such manner as the Commissioners may determine.

(4) For the purposes of this section—

(a) the expression "owner" includes a person who holds land under a lease which was originally granted for a term of fifty years or more; but in such a case nothing in this section shall prevent the collection of increment value duty so far as it is payable in respect of any other interest in the land other than that leasehold interest; and

(b) the site of a dwelling-house shall include any offices, courts, and yards, and gardens not exceeding one acre in extent, occupied together with the dwelling-house.

(5) Any increment value duty which would, but for this section, be charged shall, for the purpose of the provisions of this Act as to the collection of the duty, be deemed to have been paid.

This section gives exemption to certain small properties in the owner's occupation, but gives no relief to the small investor. As sub-s. (4) gives a wider meaning to the word "owner" in this section than it has elsewhere in the Act, the difference should be carefully noted. Sect. 41 defines owner as the person entitled in possession to the rents and profits of the land for a freehold estate, except that a lessee for a term of which more than fifty years are unexpired is to be deemed the owner instead of such person; sub-s. (4) states for the

purposes of this section owner includes a person holding under a lease which was originally for fifty years or more, regardless of the time which the lease has still to run. A lessee for forty-nine years of which forty-eight have still to run will not be able to claim exemption, but a lessee for fifty years of which twenty-five have still to run will be entitled to do so.

Sub-s. (1) gives exemption to the site of a dwelling-house, where for twelve months immediately before the occasion on which the duty is to be collected the house had been used by the owner as his residence, provided the annual value for the purpose of income tax under Schedule A. (which is in Ireland the poor law valuation) does not exceed the limits set out in the sub-section. It must be noticed that only dwelling-houses are exempted, and that the exemption would appear to be forfeited if any trade or business is carried on in the house. It was very clearly stated in the debate in the Commons that continuous residence was not necessary, and that the owner would be at liberty to let the house for a few months in the year. No limit is imposed by this sub-section upon the amount of land which the owner may own in addition to his dwelling-house.

Sub-s. (2) gives exemption to agricultural land occupied and cultivated by the owner for the previous twelve months, if that land, together with any other land belonging to the same owner, does not exceed fifty acres, and provided also that the average total value of the land (as to which see p. 4) does not exceed £75 per acre. The exemption does not apply to any land occupied with a dwelling-house if the annual value of the house for the purpose of income tax under Schedule A. exceeds £30.

Sub-s. (3) provides that the Commissioners are when necessary to apportion the annual value between a dwelling-house and land when they are valued together. The word "total" is used here in its ordinary sense, and has nothing to do with total value as defined by sect. 25, sub-s. (3).

Sub-s. (4) (a) provides that the owner, as defined by sect. 41, will be liable for increment value duty in respect of his interest in the land, on any of the occasions enumerated in sect. 1, though the owner for the purposes of the section of the leasehold interest escapes. Of course if there is no such latter owner, the owner in fee simple in possession will be exempt.

## Sect. 8.

Sub-s. (4) (b) cuts down the relief by providing that the site of the dwelling-house shall include any offices, courts, and yards, and gardens not exceeding one acre, occupied with the dwelling-house. The result of this would also appear to be that if the garden, say, is sub-let, its annual value must not be reckoned, and this deduction might render the owner exempt (for, note, that it is only the house that must be occupied), whereas if the owner wishes to enjoy his garden personally, the annual value of it added to the annual value of the house may bring the case over the limits of sub-s. (1).

Sub-s. (5) should be read with the words "so far as it has not been paid" at the end of sect. 1. The duty will have to be assessed in the ordinary way on every occasion giving rise to a claim for duty, so as to ascertain the amount for which credit must be given on subsequent occasions: sect. 3, sub-s. (1).

*Special Provision for Increment Value Duty in the Case of Land used for Games and Recreation.*

Special provision for increment value duty in the case of land used for games and recreation.

9. Increment value duty shall not be collected on any periodical occasion in respect of the fee simple of, or any interest in, any land which is held by any body corporate or unincorporate, without any view to the payment of any dividend or profit out of the revenue thereof, *bonâ fide* for the purpose of games or other recreation, if the Commissioners are satisfied that the land is so used under some agreement with the owner which as originally made could not be determined for a period of at least five years, or under other circumstances which render it probable that the land will continue to be so used, without prejudice, however, to the collection of the duty on any other occasion.

This section exempts land used for athletic and sporting purposes from the payment of increment value duty upon any periodical occasion under sect. 6 when the land is held by a body corporate or unincorporate, subject to the following conditions. The body must not have in view the payment of any dividend or profit, but presumably it would not lose the exemption by paying a moderate rate of interest upon debentures taken up by members of the club, as so often is the

case; the land must be used *bonâ fide* for games or other recreation; the original agreement with the owner must have been to use the land in such manner, and must have been for a period of five years at least. The Commissioners may, however, grant exemption, if satisfied, in the absence of a prescribed term, that the land will continue to be so used; this last condition is to meet the case of many playing-fields for working-men's clubs, which often have an ephemeral existence, and do not as a rule enter into five-year agreements.

Sect. 9.

It must be carefully noted, however, that on a sale by the body of the land or any interest in the land, or upon a grant of a lease of the land for more than fourteen years, the duty will have to be paid.

It must also be noted that when the land is held by a private individual, even though it is used by agreement with him for games or other recreation, the owner of the land will be liable for the duty upon any of the occasions set out in sect. 1 (a) and (b). This will often inflict a hardship upon a philanthropist, as the following case will show. An owner of land, which has a value for building which greatly exceeds its original site value, lets it for a term of, say, five years to a cricket club at much below its building value. During the five years the owner dies; on his death duty will be payable upon the increment value of the land, valued at its building value, and not on the basis of the low rent at which he had let it. The inevitable tendency will be either to raise the cricket club's rent, or to lead to its eviction at the end of the five years.

It should be noted that any duty which, but for this section, would have been payable, is not deemed to have been paid, and consequently, when duty is payable upon sale or grant of a lease, no allowance will be made as in the previous section.

*Provision as to Crown Lands, etc.*

10.—(1) Any increment value duty in respect of the fee simple of, or any interest in, any land held by, or in trust for, His Majesty or any department of Government, which would have been collected on any occasion had it

Provision as  
to Crown  
lands, etc.

Sect. 10,  
sub-s. (1).

10 Geo. 4,  
c. 50.  
8 Edw. 7,  
c. 48.

been held by a private person, shall for the purposes of the provisions of this Act as to the collection of increment value duty be deemed to have been paid.

(2) Neither section seventy-seven of the Crown Lands Act, 1829, nor section thirty-eight of the Post Office Act, 1908, nor any other enactment exempting from stamp duty any document made or executed on behalf of, or for the purpose of, the Crown or any Government department, shall apply so as to prevent increment value duty being collected on any instrument by which the transfer on sale of the fee simple of, or any interest in, any land, or the grant of any lease of any land, to the Crown or to any Government department, or to any officer on behalf of, or for the purposes of, the Crown or any Government department, is effected or agreed to be effected.

Sub-s. (1) exempts the Crown from payment of the duty, and deems it to have been paid. It would appear, therefore, from this sub-section that Crown lands will have to be valued as at the 30th day of April, 1909, and on the periodical occasions mentioned in sect. 6, otherwise it would be impossible to say how much duty should be deemed to have been paid. Upon the sale or lease of any Crown lands, the purchaser or lessee will not be liable for increment value duty upon his interest in the land to a greater extent than if the land had previously been in the hands of a private individual or body, and he will get the benefit of sect. 3, sub-s. (1). The site value ascertained at the time of such transfer or lease, will, so far as the purchaser is concerned, be the original site value.

Sub-s. (2) deals with the case of a transfer on sale of the fee simple or any interest in land, or the grant of a lease, to the Crown. Under sect. 77 of the Crown Lands Act, 1829, any such deed is exempt from the *ad valorem* duty imposed by the Stamp Acts; and sect. 38 of the Post Office Act, 1908, contains a similar provision, the reason being that such duty is payable by the purchaser or lessee. As increment value duty is payable by the vendor or lessor, this sub-section provides that where the Crown is the purchaser or lessee, the vendor or lessor is not to escape payment of the increment value duty payable upon the sale, or grant of a lease, to the Crown.

*Special Provision as to Flats.*Sect. 11.  

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11. Where a building is used for the purpose of separate tenements, flats, or dwellings, the grant of a lease of any such separate tenement, flat, or dwelling, and the transfer on sale or passing on death of any lease of any such separate tenement, flat, or dwelling, shall not be an occasion on which increment value duty is to be collected under this Act, nor shall duty be collected on any periodical occasion from a body corporate or unincorporate where the interest held by the body is only a leasehold interest in any such separate tenement, flat, or dwelling.

This section exempts from payment of duty the grant of a lease, irrespective of the term of the lease, or the transfer on sale or passing on death of any lease, of a separate tenement, flat, or dwelling in a building used for the purpose of separate tenements, flats, or dwellings; and no body corporate or unincorporate is to pay the duty on the periodical occasions in respect of a leasehold interest in any such separate tenement, flat, or dwelling. It is quite possible that such interest might have a very considerable increment value, but the difficulty of applying the machinery of the Act to such an interest was the cause of the exemption being granted. As the section does not exempt the fee simple of such separate tenements, the Commissioners may in rare cases be called upon to value a flat divested of all buildings and structures—surely a novel task in valuing.

It should be noted that no exemption is granted in respect of the building as a whole, and that duty will be payable by the owner of the whole on the increment value on all the occasions mentioned in sect. 1, when the whole building is the subject-matter of the transaction, and upon his death.

*Provision as to Claims for Deductions.*

12. A person shall not be entitled to claim any deduction for the purpose of ascertaining the site value of

Special provision as to flats.  
Provision as to claims for deductions.

- Sect. 12. any land on any occasion on which increment value duty becomes payable if the deduction is one which could have been, but was not, claimed for the purpose of ascertaining the original site value of the land.

Sect. 25, sub-s. (4), considered at p. 5, shows the deductions to be made in ascertaining the original site value, and these deductions also include the deductions to be made in ascertaining the total value. It is therefore of importance that all the proper deductions should be claimed when the original site value is being ascertained, as sect. 12 provides that, if not claimed then, they can never afterwards be claimed. Of course, if any new claim for deduction arises, a deduction can be claimed in respect of it.

It might here be noted that it is really in the interest of the owner, so far as increment value duty is concerned, to have a high original site value fixed, as the increment value on subsequent occasions will be correspondingly reduced. But apart from the fact that his interest will be exactly the opposite where undeveloped land duty and, possibly, reversion duty are concerned, as will appear hereafter, the Commissioners may be expected to see that the original site value will not be fixed to suit the owner's convenience. The above section will prevent an owner from purposely refraining from claiming deductions when the original site value is being ascertained so as to make that value high, and then on a subsequent occasion, when the site value is being ascertained, claiming such deductions so as to make such site value low.

In addition to the exemptions from increment value duty granted by sects. 8, 9, 10, and 11, the following exemptions should be noted.

Under sect. 22, sub-ss. (2) and (3), increment value duty is not payable on minerals which were on the 30th day of April, 1909, comprised in a mining lease or being worked, and is to be charged as an annual duty upon other minerals.

Under sect. 35, sub-s. (1), no increment value duty is payable in respect of land held by a rating authority.

Under sect. 37, sub-s. (1), no increment value duty is payable on the periodical occasions in respect of any land held by a charitable body for its purposes.



Under sect. 37, sub-s. (2), no increment value duty is payable on the periodical occasions in respect of any land held for its purposes by a registered society or company, precluded from dividing its profits. Sect. 12.  
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Under sect. 38, sub-s. (1), no increment value duty is payable in respect of land held by a statutory company for its purposes, or intended to be ultimately appropriated for its purposes.

## CHAPTER III.

### REVERSION DUTY.

#### *Reversion Duty.*

Sect. 13, sub-s. (1). **13.**—(1) On the determination of any lease of land there shall be charged, levied, and paid, subject to the provisions of this Part of this Act, on the value of the benefit accruing to the lessor by reason of the determination of the lease a duty, called reversion duty, at the rate of one pound for every complete ten pounds of that value.

Reversion  
duty.

(2) For the purposes of this section the value of the benefit accruing to the lessor shall be deemed to be the amount (if any) by which the total value (as defined for the purpose of the general provisions of this Part of this Act relating to valuation) of the land at the time the lease determines, subject to the deduction of any part of the total value which is attributable to any works executed or expenditure of a capital nature incurred by the lessor during the term of the lease and of all compensation payable by such lessor at the determination of the lease, exceeds the total value of the land at the time of the original grant of the lease, to be ascertained on the basis of the rent reserved and payments made in consideration of the lease (including, in cases where a nominal rent only has been reserved, the value of any covenant or undertaking to erect buildings or to expend any sums upon the property), but, where the lessor is himself entitled only to a leasehold interest, the value of the benefit as so ascertained shall be reduced in proportion to the amount by which the value of his interest is less than the value of the fee simple.

This duty, which is payable by a lessor on the benefit

accruing to him from the determination of a lease, must be carefully distinguished from increment value duty. That duty, we have seen, is not retrospective further than the 30th day of April, 1909, and is payable on increase in site value only, but in calculating reversion duty the Commissioners must go back to the time of the original grant of the lease and ascertain the total value at that time, and duty is paid upon the increase in total value during the currency of the lease. Sect. 13.

Turning now to sub-s. (1), we find that the duty is to be paid on the determination of any lease of land. Sect. 41 defines lease as including an underlease, and an agreement for a lease or underlease, and it also provides that a lease renewed in pursuance of an obligation contained in the lease to renew it shall not on its determination be deemed to be renewed. With this exception therefore, a lease would appear to be determined when it comes to an end through efflux of time, forfeiture, or eviction; and as no exemption is made in the case of a reversionary lease, it would appear that the duty is payable when a lease determines even though the lessee continues to be entitled to the land under the provisions of such a lease.

The duty is to be one pound for every complete ten pounds of the value of the benefit to the lessor.

Sub-s. (2) defines how the benefit is to be valued. The total value of the land is to be determined at the time of the determination of the lease. This value has been considered in the notes to sect. 25, sub-s. (3), and is practically the market value of the land and all buildings as it could be sold by the owner free of rent. From the total must be deducted such part as is owing to any works executed, or capital expenditure incurred, as to which see sect. 25, sub-s. (4) (b), by the lessor or his predecessors in title during the currency of the lease, and also all compensation payable by the lessor at the determination of the lease. This compensation would include any sum payable under the Town Tenants (Ireland) Act, 1906. If the owner during the currency of the lease accepts a lower rent than that reserved by the lease in consideration of the lessee carrying out improvements on the property, it would seem that any rent so forgiven would be expenditure incurred by the owner.

Sect. 13.  
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The total value of the land at the time of the grant of the lease must next be ascertained, on the basis of the rent reserved and payments made in consideration of the lease. The value of any covenant by the tenant is to be disregarded, even though the insertion of such a covenant as not to carry on a trade or business, or to sell liquor, on the premises might probably have necessitated the acceptance of a smaller rent than could otherwise have been obtained. One exception to this is made, namely, that where only a nominal rent is reserved (and the word "nominal" will, it appears, be strictly construed) the value of a covenant to erect buildings or expend money upon the premises will be taken into account. It must be noted that this will not cover the case of a repairing lease, where the tenant puts the premises into a state of repair and pays a lower rent than if the landlord did the repairs and got the full rack rent. The result in many cases will therefore be that the Commissioners will be bound to estimate the total value at the time of the grant of the lease at much under its real value.

The benefit to the lessor is deemed to be the amount by which the total value at the end of the lease, subject to the deductions mentioned above for works executed, expenditure incurred and compensation, exceeds the total value at the end of the lease. Roughly speaking, he has to pay not only on the value of the tenant's improvements, but also on the amount by which the site value, at the determination of the lease exceeds the site value at the time of the grant of the lease.

The sub-section also provides that where the lessor himself has only a leasehold interest, the value of the benefit shall be reduced accordingly. The value of his leasehold interest in the premises must be ascertained according to the length of time for which his lease has still to run, and the value of the benefit reduced in the same proportion as this leasehold value bears to the value of the fee simple. This is analogous to the provisions of sect. 3, sub-s. (3), but the making of rules for arriving at the value of such leasehold interest is not provided for. The State does not in these cases forgive, but merely postpones, payment of duty on the balance of the benefit. When the middleman's lease falls in, the balance of the duty will be collected. It should be noted that there is no

provision for giving credit for reversion duty paid on a previous occasion, corresponding with the provision in sect. 3, sub-s. (1) for giving credit for increment value duty paid on a previous occasion. Sect. 13.  
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*Exemptions from Reversion Duty and Allowances.*

14.—(1) Where, in the case of a reversion to a lease purchased before the thirtieth day of April nineteen hundred and nine, the lease on which the reversion is expectant determines within forty years of the date of the purchase, no reversion duty shall be charged under this Part of this Act on the determination of the lease: Provided that this exemption shall not apply where the lease is determined within forty years by agreement between the lessor and the lessee, whether express or implied, not contained in the lease itself, unless the lease would, apart from any such agreement, have determined within that period. Exemptions  
from rever-  
sion duty,  
and allow-  
ances.

(2) No reversion duty shall be charged on the determination of the lease of any land which is at the time of the determination agricultural land, nor on the determination of a lease, the original term of which did not exceed twenty-one years, nor shall reversion duty be charged where the interest of the lessor expectant on the determination of a lease is a leasehold interest which does not exceed that number of years.

(3) Where a lease of any land is determined before the expiration of the term of the lease by agreement between the lessor and the lessee, whether express or implied, and a fresh lease of the land is then granted to the lessee the term of which extends at least twenty-one years beyond the date on which the original lease would have expired, the Commissioners shall make an allowance in respect of the reversion duty payable of two and a half per cent. of the duty for every year of the original term of the lease which is unexpired when the lease is determined, and any sum so allowed shall be treated as having been paid:

Sect. 14,  
sub-s. (3).

Provided that the allowance shall not exceed fifty per cent. of the whole duty payable.

(4) Where on any occasion on which increment value duty is due in respect of any increment value it is proved to the satisfaction of the Commissioners that reversion duty has been paid in respect of any benefit accruing to a lessor, or part of such a benefit, which is identical with the increment value, such sums as the Commissioners determine to have been paid in respect of the benefit or part of the benefit shall be treated as being also a payment on account of increment value duty ; and where on any occasion on which reversion duty is due in respect of any benefit accruing to a lessor, it is shown to the satisfaction of the Commissioners that increment value duty has been paid on any increment value which is identical with that benefit or any part of that benefit, such sums as the Commissioners determine to have been paid in respect of that value shall be treated as being also a payment on account of the reversion duty in respect of that benefit or part of a benefit.

(5) Where a reversion has been mortgaged before the thirtieth day of April nineteen hundred and nine, and the mortgagee has foreclosed before the lease on which the reversion is expectant determines, the mortgagee shall not be liable to pay reversion duty in excess of the amount by which the total value of the land at the time of the determination of the lease exceeds the amount payable under the mortgage at the date of the foreclosure.

Sub-s. (1) exempts from duty the determination of a lease, where the lessor's interest was purchased before the 30th day of April, 1909, and the lease determines within forty years of the date of purchase. Its object is to avoid inflicting a hardship upon the purchaser of a rent, who at the time of his purchase took into consideration, not only the rent, but also the reversionary interest at the end of the lease, *i.e.* the possibility of raising the rent at the end of the lease. A time limit of forty years was imposed, as it was contended that a purchaser would not be materially influenced in fixing his price by the possibility of raising the rent if he had to wait

more than forty years for any rise to take place, and the exemption only applies when the interest was purchased before the 30th day of April, 1909. Sect. 14.  
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To prevent collusion between lessor and lessee, who might arrange for a surrender, before the expiration of this period of forty years, of a lease which had still some years to run, it is provided that the exemption is not to apply to a determination of the lease within such period of forty years by agreement between the lessor and lessee, unless the lease would in any event have determined within such period.

Sub-s. (2) provides that duty shall not be charged—

(a) On the determination of a lease of any land which is at the time of the determination agricultural land. This would seem to cover the case of land which during the currency of the lease had been used for other purposes, and also the case of land which at the time of determination is being used for agriculture, though ripe for building. It would not appear to secure exemption for the agricultural portion of the land in a lease the whole of which is not agricultural, as no power of apportionment is given.

(b) Where the original term of the lease did not exceed twenty-one years. This should be carefully distinguished from an interest in land, which figures so largely in increment value duty, and is defined as not including any leasehold interest under a lease for a term of years not exceeding fourteen years. It should be read with the definition of "term of a lease" in the fifth paragraph of sect. 41. If the lease was for fourteen years, with an obligation to renew it for another fourteen years, then if the lease is surrendered at the end of fourteen years, reversion duty will be payable, for the term is to include the period for which it may be renewed. If the lease was granted for the life of a person whose mean expectation of life exceeds twenty-one years, reversion duty will be payable upon his death, even if it occurs within twenty-one years; similarly, if the lease was granted for the life of a person whose mean expectation of life is less than twenty-one years, reversion duty will not be payable upon his death, even if it occurs after twenty-one years.

(c) Where the interest of the lessor at the determination of a lease is a leasehold interest not exceeding twenty-one years. In this case the duty will be collected when the middleman's interest expires. It should be noted that if the

Sect. 14. lessor holds for a life, no matter how short the mean expectation of such life may be, he will be liable for the entire reversion duty ; exemption is only given when the lessor's interest is a leasehold interest. He will, however, be entitled, under sect. 39, to charge the land with the duty paid.

Sub-s. (3) provides for the case of a surrender of a lease and grant of a new lease for twenty-one years or more beyond the date at which the surrendered lease would have expired. The benefit to the lessor on the surrender is to be valued, and an allowance of two and a half per cent. of the duty is to be made for every year of the surrendered lease which had still to run, but the allowance is not to exceed 50 per cent. of the duty payable. It is really a discount of two and a half per cent. per annum upon duty paid in advance. Say that a lease was granted in 1850 for sixty-six years, and in the year 1910 the lease is surrendered, and a new lease given for sixty years. The benefit to the lessor is calculated as at the date of surrender, but an allowance is to be made of 15 per cent. of the duty, *i.e.* two and a half per cent. for each of the six years which the old lease had still to run. Such 15 per cent. is to be treated as having been paid, which will affect the amount of increment value duty to be paid on the granting of a new lease. See the next sub-section.

Sub-s. (4) provides against payment of reversion duty upon the value of the benefit to a lessor and also increment value duty upon increment value, when the increment value is identical with the benefit or part of the benefit, and *vice versâ*. Two examples will help to explain this rather involved sub-section.

A lease is granted for sixty years in the year 1870 at the yearly rent of fifty pounds ; when the lease determines in the year 1930 the total value of the land in the year 1870 is ascertained to be £1000, and in the year 1930 to be £4000, and the lessor is not entitled to any of the deductions mentioned in sect. 13, sub-s. (2) ; the value of the benefit to the lessor will be £3000 and the reversion duty £300. Immediately after the lease falls in, the land is sold for £4000 ; the original site value has been ascertained to be £1500, and the site value on sale £3000. A part of the benefit to the lessor must have been the rise in site value between the years 1909 and 1930, £1500, upon which £150, reversion duty at 10 per cent., has been paid ; the vendor's liability for increment value duty will be £300, being 20 per cent. of £1500, the increment



value, less an allowance of £150, being 10 per cent. of the original site value, and £150 reversion duty paid upon a part of the benefit identical with the increment value. That is to say, he will escape payment of duty altogether. It is assumed in this example that no increment value duty has been paid between the years 1909 and 1930. Sect. 14.

A lease is granted for sixty years in the year 1870 at the yearly rent of £50; the land is sold in the year 1920, subject to the lease, for £4000; the original site value is £1500, and the site value in 1920 is ascertained to be £3000; increment value duty is paid on £1500, *i.e.* £300, less 10 per cent. of the original site value, or £150, but the whole £300 is deemed to have been paid. See sect. 3, sub-s. (5). Now, whatever the benefit to the lessor may be in the year 1930, when the lease determines, it must include the rise in site value between the years 1909 and 1920, and as duty at 20 per cent. has been paid on this amount, the benefit as ascertained under sub-s. (2) must be further reduced in value by the increment value in the year 1920, £1500, before reversion duty is assessed at 10 per cent.

Sub-s. (5) is for the benefit of a mortgagee to whom a reversion has been mortgaged before the 30th day of April, 1909, and who has foreclosed before the determination of the lease on which the mortgaged reversion is expectant. In such cases, but for this provision, the mortgagee might be liable for a large amount of reversion duty. Take the following case. Land is leased for sixty-six years in the year 1850 at £100 per annum; when the lease expires in 1916 the total value is £5000, the lessor is entitled to no deductions, and the total value in 1850 is ascertained to be £2000; the benefit to the lessor is £3000, and the reversion duty is £300. In the year 1890, however, the lessor mortgaged the land subject to the lease for £2000, and the mortgagee foreclosed in 1905, when £3000 was due to him. The mortgagee will only be liable to pay £200 duty on £2000, the difference between the total value, £5000, and the sum due to him in 1905, £3000, and thus escapes payment of £100 duty.

It would seem that in such case the mortgagee is not entitled to claim the deductions mentioned in sect. 13, sub-s. (2), even in respect of works executed, or expenditure incurred, by himself after foreclosure. He would, it appears, have the option of choosing under which section he is to be taxed.

*Recovery of Reversion Duty.*

Sect. 15,  
sub-s. (1). 15.—(1) Reversion duty shall be recoverable from any lessor to whom any benefit accrues from the determination of a lease as a debt due to His Majesty, but shall rank *pari passu* with all other debts due from such lessor.

Recovery of  
reversion  
duty.

(2) Every lessor shall, on the determination of a lease on the determination of which reversion duty is payable under this section, deliver an account to the Commissioners setting forth the particulars of the land and the estimated value of the benefit accruing to the lessor by the determination of the lease.

(3) If any person who is under an obligation to deliver an account under this section knowingly fails to deliver such an account within the period of three months after the determination of the lease, he shall be liable to pay to His Majesty a sum not exceeding ten per cent. upon the amount of any duty payable under this section, and a like penalty for every three months after the first month during which the failure continues.

48 & 49 Vict.  
c. 51.

(4) Section seventeen of the Customs and Inland Revenue Act, 1885 (which relates to the power to assess duty according to accounts rendered, and to obtain other accounts), shall apply with respect to any account delivered under this section (with the exception of any provisions relating to appeals).

Sub-s. (1) provides that reversion duty shall be recoverable from any lessor as a debt due to the Crown. We have already considered in sect. 4, sub-s. (4) the position of the Crown with reference to debts, but this position is, of course, in the case of reversion duty, greatly weakened by the proviso in this sub-section that it shall rank *pari passu* with all other debts due from the lessor. It should be noted that there is nothing to prevent the lessor and lessee from agreeing that the latter should pay the reversion duty, and that the duty is not a charge upon the land.

Sub-s. (2) provides that the lessor shall on the determination of the lease deliver an account setting forth the particulars of the land and the estimated value of the benefit to the lessor.

This sub-section should be compared with sect. 4, sub-ss. (2) and (3), under which merely the particulars are furnished to the Commissioners, who then ascertain the increment value and assess the duty ; but this sub-section throws on the lessor the onus of valuing the total value at the determination of the lease, the deductions to which he is entitled under sect. 13, sub-s. (2), the total value at the time of the grant of the lease, and the estimated value of the benefit to him. The Commissioners, of course, would not be bound by such estimate, see sub-s. (4). A copy of the account to be rendered is given in Appendix D., and shows clearly the duties cast upon the lessor.

Sect. 15.  
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Sub-s. (3) imposes a penalty of not more than 10 per cent. of the duty for knowingly failing to deliver the account mentioned in sub-s. (2) within three months after the determination of the lease, and a like penalty for every three months after the first month. The penalty will therefore be, on the delivery of an account during the first three months, nil ; during the fourth month, 10 per cent. ; during the fifth, sixth, and seventh months, 20 per cent., and so on in an increasing scale. If no account, however, is delivered, it would seem that there is no way of assessing the duty, and therefore no way of assessing the penalty. The penalty in sect. 4, sub-s. (2) should be compared with this penalty. In the former case the penalty of ten pounds can in any event be recovered, and the transferee or lessee, moreover, will take good care to see that the necessary particulars are furnished, as otherwise his document of title would not be properly stamped. The Crown has no such safeguard in the case of reversion duty, as the lessor is the only person concerned.

Sub-s. (4) applies sect. 17 of the Customs and Inland Revenue Act, 1885 (with the exception of any provisions relating to appeals) to the assessment of duty and the obtaining of other accounts. This section, as so applied, which is given in the notes to sect. 6, sub-s. (3), authorises the Commissioners to assess the duty on the footing of the account to be rendered under sub-s. (2), or if dissatisfied with such account, to cause an account to be taken by any one appointed by them for the purpose, and to assess the duty on the footing of such last-mentioned account. It does not, however, authorise them to appoint any one to take such account on failure by the lessor to deliver an account.

**Sect. 15.** — If the duty on the Commissioners' account is greater than the duty on the lessor's account, the Commissioners can, in their discretion, having regard to the merits of each case, charge the lessor with the expenses of taking their account, or a part of same.

The duty is payable immediately after the assessment, and the Commissioners are not given power to provide for its payment by instalments. Under sect. 39, sub-s. (1), a tenant for life can charge the land with any sum paid by him for reversion duty, and under sub-s. (4) a mortgagee can add any sum so paid by him to his security.

In addition to the exemptions and allowances from reversion duty granted by sect. 14, the following exemptions should be noted.

Under sect. 22, sub-s. (1), no reversion duty is payable upon the determination of a mining lease.

Under sect. 35, sub-s. (1), no reversion duty is payable in respect of land held by a rating authority.

Under sect. 37, sub-s. (1), no reversion duty is payable in respect of land held by a charitable body while occupied and used by such body.

Under sect. 37, sub-s. (2), no reversion duty is payable in respect of land held by a registered society or company, precluded from dividing its profits, while occupied and used by such society or company.

Under sect. 38, sub-s. (1), no reversion duty is payable in respect of land held by a statutory company for its purposes, or intended to be ultimately appropriated for its purposes.

## CHAPTER IV.

### UNDEVELOPED LAND DUTY.

#### *Duty on Site Value of Undeveloped Land.*

16.—(1) Subject to the provisions of this Part of this Act, there shall be charged, levied, and paid for the financial year ending the thirty-first day of March nineteen hundred and ten, and every subsequent financial year in respect of the site value of undeveloped land a duty, called undeveloped land duty, at the rate of one halfpenny for every twenty shillings of that site value. Sect. 16,  
sub-s. (1).  
  
Duty on site  
value of un-  
developed  
land.

(2) For the purposes of this Part of this Act, land shall be deemed to be undeveloped land if it has not been developed by the erection of dwelling-houses or of buildings for the purposes of any business, trade, or industry other than agriculture (but including glasshouses or green-houses), or is not otherwise used bonâ fide for any business, trade, or industry other than agriculture:

Provided that—

- (a) Where any land having been so developed or used reverts to the condition of undeveloped land owing to the buildings becoming derelict, or owing to the land ceasing to be used for any business, trade, or industry other than agriculture, it shall, on the expiration of one year after the buildings have so become derelict or the land ceases to be so used, as the case may be, be treated as undeveloped land for the purposes of undeveloped land duty until it is again so developed or used; and
- (b) Where the owner of any land included in any

Sect. 16,  
sub-s. (2).

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scheme of land development shows that he or his predecessors in title have, with a view to the land being developed or used as aforesaid, incurred expenditure on roads (including paving, curbing, metalling, and other works in connexion with roads) or sewers, that land shall, to the extent of one acre for every complete hundred pounds of that expenditure, for the purposes of this section, be treated as land so developed or used although it is not for the time being actually so developed or used, but for the purposes of this provision, no expenditure shall be taken into account if ten years have elapsed since the date of the expenditure, or if after the date of the expenditure the land having been developed reverts to the condition of undeveloped land, and in a case where the amount of the expenditure does not cover the whole of the land included in the scheme of land development, the part of the land to be treated as land developed or used as aforesaid shall be determined by the Commissioners as being the land with a view to the development or use of which as aforesaid the expenditure has been in the main incurred.

(3) For the purposes of undeveloped land duty, the site value of undeveloped land shall be taken to be the value adopted as the original site value or, where the site value has been ascertained under any subsequent periodical valuation of undeveloped land for the time being in force, the site value as so ascertained :

Provided that where increment value duty has been paid in respect of the increment value of any undeveloped land, the site value of that land shall, for the purposes of the assessment and collection of undeveloped land duty, be reduced by a sum equal to five times the amount paid as increment value duty.

(4) For the purposes of undeveloped land duty undeveloped land does not include the minerals.

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Sub-s. (1) defines undeveloped land duty as an annual duty of one halfpenny in the pound on the site value of undeveloped land, payable for the financial year ending the 31st day of March, 1910, and every subsequent financial year. It differs from increment value duty and reversion duty, which are payable on the occasions mentioned in sect. 1 and sect. 13, sub-s. (1) respectively, in that it is an annual duty. The case of land being developed during the currency of a financial year is not provided for, and it would seem doubtful if such development would entitle the owner to relief for part of the duty for such year.

Sub-s. (2) defines land as being undeveloped if it has not been developed by (a) the erection of dwelling-houses, (b) the erection of buildings for the purpose of any business, trade, or industry other than agriculture (but including glasshouses or greenhouses), or (c) is not otherwise used *bonâ fide* for any business, trade, or industry other than agriculture.

It should be noted that land used for agriculture, as defined in the last paragraph of sect. 41, is not developed land; but an exception is made in the case of glasshouses and greenhouses, and their erection on nursery grounds, though such grounds are still agricultural land within the meaning of sect. 41, will bring such grounds, to the extent discussed below, into the category of developed land. But the adoption of the modern system of intensive cultivation, though it may have the effect of increasing the value of the land to a very great extent, will not change the land into developed land.

The erection of a dwelling-house will only, it seems, exempt land occupied together with such house, and then only to the extent specified in sect. 17, sub-s. (4).

The erection of buildings for any business, trade, or industry other than agriculture will not, it seems, exempt any land except the actual site of such buildings, but if any other land is used *bonâ fide* for such business, trade, or industry, such land is also deemed to be developed. In the case of a manufacturer who buys, say, five acres of land, builds on two acres, and keeps the other three for future extensions, it was most clearly laid down in the debate in the Commons that these three acres would be liable to the duty. In the case of glasshouses and greenhouses, as any other land would necessarily be used for agriculture, only the site of such houses would be exempt.

## Sect. 16.

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Proviso (a) deals with the case of developed land reverting to the condition of undeveloped land through the buildings on same becoming derelict. This word is not defined, but its meaning was made fairly clear in the debate in the Commons; it is not to apply to a building which is merely untenanted, but it is to be taken to mean such a state of dilapidation as would render it unfit for occupation as a dwelling-house, or so that no business, trade, or industry could be carried on in it.

Proviso (a) also deals with the case of land not built on, being no longer used for business, trade, or occupation, such as a timber-yard, rope-walk, or bleach-green.

In both cases the exemption is to cease one year after such reverting; if there is no power of apportioning or forgiving the duty, and the criterion is whether the land was developed during the entire year, this would have the effect, in case the reverting takes place on the 30th day of March, of exacting from the owner a full year's duty for the following financial year, though the land was undeveloped for only one day of same. Similarly, if no duty is payable if the land was developed for any portion of the financial year, and the reverting takes place on the 2nd day of April, the land will be developed for one day of the following financial year, and will escape a whole year's duty.

Proviso (b) grants a large measure of relief in giving exemption to one undeveloped acre of land included in any scheme of land development in respect of every hundred pounds spent by the owner or his predecessor in title on roads or sewers for the purpose of developing it or using it for the above purposes. It should be noted that these roads or sewers may have been made anywhere, so long as their purpose was to develop the land in question. The exemption is only to last for ten years from such expenditure; if the expenditure is spread over a number of years, the ten years will probably run from the date on which each separate hundred pounds of expenditure has been incurred. The exemption will also be forfeited if the land having been developed reverts to undeveloped land as defined by proviso (a), but presumably any portion of the land actually built on or used will retain its exemption for a year under proviso (a), and the remainder of the land not built on or used will at once be undeveloped land. Where the amount of the expenditure does not cover the whole of the land included in the scheme, that is to say,



when the number of hundred pounds spent is not equal to the number of acres in the scheme, the Commissioners are to determine in respect of which portions the expenditure has been mainly incurred, and such portions are to be treated as developed land. It should be noted, however, that after the ten years have expired and the exemption through expenditure on roads and sewers can no longer be claimed, a deduction can still be claimed for so much of the total value as is attributable to such expenditure.

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Sub-s. (3) provides that for the purposes of this duty the site value shall be the original site value, or where the site value has been ascertained under any subsequent periodical valuation, that is to say in the year 1914 and every subsequent fifth year (see sect. 28), the site value as so ascertained. It also states that where increment value duty has been paid, the site value shall, for the purposes of reversion duty, be reduced by five times the amount paid as increment value duty, that is to say, by the increment value. Take an original site value of £1000; the land is sold in the year 1914 for £1400, and that sum is then found to be the site value; the increment value is £400; the increment value duty paid or deemed to be paid is £80; undeveloped land duty will subsequently be paid on £1000, £1400 less five times £80, that is to say on £1000. This is the amount on which the new owner will pay undeveloped land duty. If it had remained in the hands of the former owner, he would have had to pay duty on £1400, the site value in 1914. The second owner dies in 1915, and the site value is ascertained to be £2000; the increment value is £1000, and the increment value duty paid, or deemed to be paid, is £120. Undeveloped land duty will be charged on £1400 till the year 1919.

We will now deal with the case of land held by a body corporate or unincorporate; say that the site value of land purchased by them after the 30th day of April, 1909, is at the date of such purchase £1000, or that £1000 is the original site value of land held by them on the 30th day of April, 1909; they will pay undeveloped land duty on £1000. At the next periodical occasion, 1914, the site value is £1500, and the increment value is £500. They will in that year under the provisions of sect. 6, sub-s. (1) pay, or will be deemed to have paid, £100 increment value duty (see p. 35).

Sect. 16. — The site value for undeveloped land duty will then be £1000, £1500 less £500. If in the year 1919 the site value is £2000, as no increment value duty is payable in that year, undeveloped land duty will be charged on £2000, less £500, being five times the increment value duty paid in 1914.

Sub-s. (4) provides that for the purpose of this duty land does not include minerals. Minerals are fully dealt with in Chap. V.

It must be noted that undeveloped land duty is payable on land which has not been built on, even though a restrictive covenant or easement is the cause of such land not being developed. In ascertaining the total value, however, the effect of such covenant or easement must be taken into account, and the value of the land reduced accordingly.

*Exemptions from Undeveloped Land Duty, and Allowances.*

Exemptions  
from unde-  
veloped land  
duty, and  
allowances.

17.—(1) Undeveloped land duty shall not be charged in respect of any land where the site value of the land does not exceed fifty pounds per acre.

(2) In the case of agricultural land of which the site value exceeds fifty pounds per acre, undeveloped land duty shall only be charged on the amount by which the site value of the land exceeds the value of the land for agricultural purposes.

(3) Undeveloped land duty shall not be charged—

(a) On the site value of any parks, gardens, or open spaces which are open to the public as of right; or

(b) On the site value of any woodlands, parks, gardens, or open spaces reasonable access to which is enjoyed by the public or by the inhabitants of the locality (including access regularly enjoyed by any of the naval or military forces of the Crown for the purpose of training or exercise) where, in the opinion of the Commissioners, that access is of public benefit; or

(c) On the site value of any land where it is shown to the Commissioners that the land is being

kept free of buildings in pursuance of any definite scheme, whether framed before or after the passing of this Act, for the development of the area of which the land forms part, and where, in the opinion of the Commissioners, it is reasonably necessary in the interests of the public, or in view of the character of the surroundings or neighbourhood, that the land should be so kept free from buildings; or

Sect. 17,  
sub-s. (3).

- (d) On the site value of any land which is bonâ fide used for the purpose of games or other recreation where the Commissioners are satisfied that the land is so used under some agreement with the owner which, as originally made, could not be determined for a period of at least five years, or where, in the opinion of the Commissioners, other circumstances render it probable that the land will continue to be so used.

Where any land kept free from buildings in pursuance of any definite scheme has received the benefit of an exemption from undeveloped land duty by virtue of this section, that land shall not be built upon unless the Local Government Board give their consent, on being satisfied that it is desirable in the interests of the public that the restriction on building should be removed; and any such consent may be given subject to such conditions as to the mode in which the land is to be built upon as the Local Government Board think desirable under the circumstances.

The opinion of the Commissioners as to matters which are expressed to be matters for the opinion of the Commissioners under this sub-section shall be final and not subject to any appeal.

(4) Undeveloped land duty shall not be charged on the site value of any land not exceeding an acre in extent occupied together with a dwelling-house or on the site value of any land being gardens or pleasure grounds so

**Sect. 17,** occupied when the site value of the gardens and pleasure  
**sub-s. (4).** grounds together with the site value of the dwelling-house  
— does not exceed twenty times the annual value of the  
gardens, pleasure grounds, and dwelling-house as adopted  
for the purpose of income tax under Schedule A. :

Provided that the exemption under this provision shall not apply so as to exempt more than five acres, and where the land, gardens, or pleasure grounds occupied together with a dwelling-house exceed five acres in extent, those five acres shall be exempted which are determined by the Commissioners to be most adapted for use as gardens or pleasure grounds in connexion with the dwelling-house.

Where the dwelling-house, gardens, and pleasure grounds are valued for the purpose of income tax under Schedule A., together with other land, the total annual value shall be divided between the dwelling-house, gardens, and pleasure grounds and the other land in such manner as the Commissioners may determine.

(5) Where agricultural land is at the time of the passing of this Act held under a tenancy originally created by a lease or agreement made or entered into before the thirtieth day of April nineteen hundred and nine, undeveloped land duty shall not be charged on the site value of the land during the original term of that lease or agreement while the tenancy continues thereunder. Provided that where the landlord has power to determine the tenancy of the whole or any part of the land, the tenancy of the land or that part of the land shall not be deemed for the purposes of this provision to continue after the earliest date after the commencement of this Act at which it is possible to determine the tenancy under that power.

All agricultural land is under sect. 16, sub-s. (2), undeveloped land, and liable to the duty. Sub-s. (1) exempts a large amount of this land by enacting that if the site value of any land does not exceed £50 per acre, the duty is not to be charged, and in this connection it should be noted that the site value of agricultural land is the value of the land

divested of all buildings, drains, and all things growing on it, though no deduction can be claimed for expenditure incurred in improving its agricultural value by manuring, cultivation, or draining beyond the point which adds to its building value. This will also exempt land which is useless for either agriculture or building, and of small value for sporting purposes.

Sub-s. (2) gives further relief to agricultural land, which has also a value for building or other purposes, by only charging with the duty, in cases where the site value exceeds £50 per acre, the amount by which the site value exceeds the agricultural value, which is the market value of the land, with all buildings and growing things on the land, for agricultural, as apart from building, purposes. The deduction does not include the value for sporting purposes. This relief should be compared with that given by sect. 7 to agricultural land in respect of increment value duty. We have seen that no allowance is made for the agricultural value under that section, when the land acquires a building value greater than the agricultural value.

Sub-s. (3) (a) exempts parks, gardens, or open spaces, which are open to the public as of right. "Open to the public as of right" is not defined in the Act, but it would appear to mean that the public have a right of way over such spaces, or any more extensive right of user, either by dedication or prescription.

Sub-s. (3) (b) exempts parks, gardens, open spaces, and woodlands, where the right is not so extensive as in the last sub-section. They are exempted if the public or the inhabitants of the locality have reasonable access to them, but the Commissioners must be of the opinion that the access is of public benefit. No light was thrown upon the meaning of the words "public benefit" in the debate in the Commons, and it is simply a matter of conjecture how they will be interpreted by the Commissioners.

Common lands occupy rather a peculiar position; the public have no right of access to communal land, though they often enjoy it *de facto*; in such cases those lands will be exempt from undeveloped land duty; where such access is not enjoyed, the owner will have to bear the duty; but any depreciation in the value of the land owing to the existence of rights of common (which very probably will prevent the

Sect. 17. owner from building on it) will be taken into account in arriving at the total value, and also the site value, of the land.

Sub-s. (3) (c) exempts certain land kept free of buildings under a scheme for development of the area of which such land forms part. This sub-section was inserted for the benefit chiefly of the squares in London and other cities, and of garden cities which make a feature of leaving open spaces. To get the benefit of the exemption, it is not necessary that the public or the inhabitants of the locality should have any right of access; but the Commissioners must be of the opinion that it is reasonably necessary either in the interest of the public, or in view of the surroundings, that the land should be kept free of buildings.

Where any such land has been exempted, it cannot be built upon without the consent of the Local Government Board, who will have to be satisfied that it is desirable in the interests of the public to remove the restriction on building. It would seem that a change in the nature of the neighbourhood would not of itself justify the Local Government Board in removing the restriction, and it might be very difficult for an owner to prove to that body that the interests of the public would be served by an open space being built over. If, therefore, there is any reasonable likelihood of the owner desiring to build on such open space, he should be chary about claiming exemption under this sub-section.

Sub-s. (3) (d) exempts from the duty land used for games or other recreation, where the Commissioners are satisfied that the land is so used under an original agreement for at least five years, or that it is probable that the land will continue to be so used. This sub-section should be compared with sect. 9. To exempt the lands from undeveloped land duty it is not necessary that the land should be in the hands of a body who do not seek a dividend or profit; many athletic clubs are limited companies, which are ordinary trading companies; the fact that such a club is the lessee will not disentitle the owner to exemption from undeveloped land duty, if the other conditions in the sub-section are satisfied.

Sub-s. (4) exempts land of any nature occupied together with a dwelling-house if such land does not exceed one acre. It would seem to include land used as a garden, or pleasure ground, or for a paddock. It would also apply to land

occupied by the owner merely to prevent other houses from being built too near to his own. Sect. 17.

When the land exceeds one acre, only gardens or pleasure grounds are exempt, subject to the following conditions and extent. The site values of the house and of the gardens or grounds occupied with the house must be ascertained, as also the annual value of the house and gardens or grounds for the purpose of income tax under Schedule A. If the combined site values exceed twenty times the annual value, there is no exemption. If they do not exceed it, which will only happen when the owner has built on his land a house in proportion to the land occupied by him, the gardens or grounds will be exempt, but to the extent of five acres only; if they exceed five acres, the Commissioners are to exempt the five acres which they determine are most adapted for use as gardens or grounds in connection with the house. It is needless to comment on the difficulty of the task imposed upon the Commissioners of picking out the acres to be exempted under this sub-section.

This sub-section does not apply to a garden enjoyed by the residents of a number of houses in common; if there are twenty houses which have a common garden of ten acres, the garden will not be exempt, except under the provisions, possibly, of sub-s. (3) (c).

The Commissioners are given practically the same power of apportioning the annual value for income tax as is conferred on them by sect. 8, sub-s. (3).

Sub-s. (5) exempts agricultural land held on the 29th day of April, 1910, under a tenancy created by a lessee or agreement before the 30th day of April, 1909, during the original term of the lease or agreement, while the tenancy continues. It contains the important proviso that the tenancy shall not be deemed to continue after the earliest date after the 29th day of April, 1910, at which it is possible for the landlord to determine the tenancy. That is to say, the landlord must be deemed to have served notice to quit on the first possible occasion after the 29th day of April, 1910, and the land will not be exempt after the expiration of such notice. In the case of agricultural land in Ireland, held subject to the statutory conditions, the landlord has power, under the provisions of sect. 5 and sect. 8, sub-s. (3) of the Land Law (Ireland) Act, 1881, to resume possession of

**Sect. 17.** any portion of a holding for the purpose of building thereon, upon his paying to the tenant a sum to be fixed by the Land Commission. Sect. 41, in its definition of an interest in land states, as we have seen on p. 11, that a statutory tenancy in Ireland is not included in the term an interest in land. The section under consideration, however, does not limit in any such way the meaning of the words "lease or agreement." It would seem, therefore, that such land will come within the scope of the proviso, and will be liable to undeveloped land duty from the time of its having a building value, subject to the relief given by sect. 17, sub-s. (2). Such duty would appear to be payable by the landlord, and not by the tenant, and the only way in which the landlord can relieve himself of this burden is to exercise his power of resumption and develop the land by building on it.

*Exemption of Small Holdings from Undeveloped Land Duty.*

Exemption  
of small hold-  
ings from un-  
developed  
land duty.

**18.** Undeveloped land duty shall not be charged on the site value of any agricultural land, occupied and cultivated by the owner thereof, where the total value of that land, together with any other land belonging to the same owner, does not exceed five hundred pounds.

For the purposes of this provision the expression "owner" includes a person who holds land under a lease which was originally granted for a term of fifty years or more.

This section exempts agricultural land, occupied and cultivated by the owner, where the total value of that land, together with any other land belonging to the same owner, does not exceed £500. The "owner" under sect. 41 is the person entitled to the rents and profits for a freehold estate, but if the land is leased for a term of which more than fifty years are unexpired, then the lessee is to be deemed the owner. This sub-section provides that the lessee is to be deemed to be the owner, if he holds under a lease which was granted for fifty years or more, no matter how many years



are still to run. It is not easy to say what other land "belongs" to the same owner, that is to say, has to be added to the agricultural land to ascertain if the owner is exempt or not; presumably the test is whether the owner of the agricultural land, in the extended sense of this section, is also the owner of the other land in the same sense. It should be noted that it is the total value, not the site value, of the land, that is the test of value.

Sect. 18.  
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*Recovery of Undeveloped Land Duty.*

19. Undeveloped land duty shall be assessed by the Commissioners and shall be payable at any time after the first day of January of the year for which the duty is charged, and any such duty for the time being unpaid shall be recoverable from the owner of the land for the time being as a debt due to His Majesty, and shall be borne by that owner notwithstanding any contract to the contrary.

Recovery of  
undeveloped  
land duty.

If at any time undeveloped land duty is not assessed within the year for which it is charged, owing to there being no value either shown in the provisional valuation or finally settled on which the duty can be assessed, or for any other reason, the duty may be assessed at any time, and shall be payable at any time after the expiration of two months from the date of the assessment, so, however, that no such duty shall be assessed more than three years after the expiration of the year for which it is charged.

This section states that the duty is to be assessed by the Commissioners. This involves, of course, the fixing of the site value, and the agricultural value; no special returns have to be made by the owner for the purpose of having the duty assessed, save those required in connection with the site value and agricultural value.

The duty is to be payable any time after the 1st day of January for the financial year for which it is to be charged, and is to be recoverable as a debt due to His Majesty; the

Sect. 19. Crown will therefore rank for this duty exactly as it will for increment value duty. See notes to sect. 4, sub-s. (4).

The duty is to be recoverable from the owner for the time being as defined by sect. 41, and is to be borne by that owner notwithstanding any contract to the contrary. We have here the first provision against contracting out, for we have seen that there is nothing to prevent a vendor or lessor agreeing with the purchaser or lessee that the latter is to bear the increment value duty or reversion duty. This will sometimes work inequitably. Suppose that an owner has given an option for some years for a long lease of building land; during the currency of the option the owner has no power to develop the land, yet he must pay the undeveloped land duty on it. In other ways also the incidence of the tax will be unjust. A. owns a house and large garden, and, after the 30th day of April, 1909, leases the garden to his neighbour B., who has a house but no garden, and binds B. down not to build on the garden. If the Commissioners are not satisfied that such covenant was desirable (see sect. 25, sub-s. (3), p. 2), and if the lease is for say 100 years, B. has to pay undeveloped land duty, and has no power of relieving himself of the burden. Similarly, if A. leases land for a term of forty years to B., who requires the land for a bleach-green, and B. finds the bleach-green unremunerative and uses the land for agricultural purposes, A. will have to pay undeveloped land duty during the currency of the lease from one year after the land ceases to be used as a bleach-green.

This section enables the Commissioners to assess the duty at any time within three years after the end of the year for which it is charged, and the duty is to be payable two months after assessment. It will take the Commissioners some years to value all the undeveloped land in the United Kingdom, but this provision will enable them to recover all the duty payable if their valuation is completed by the year 1913.

In addition to the exemptions granted by sections 16, 17, and 18, the following exemptions should be noted.

Under sect. 35, sub-s. (1), no undeveloped land duty is payable in respect of land held by a rating authority.

Under sect. 37, sub-s. (1), no undeveloped land duty is payable in respect of land held by a charitable body, while occupied and used by such body.

Under sect. 37, sub-s. (2), no undeveloped land duty is payable in respect of land held by a registered society or company, precluded from dividing its profits, while occupied and used by such society or company.

Under sect. 38, sub-s. (1), no undeveloped land duty is payable in respect of land held by a statutory company for its purposes, or intended to be ultimately appropriated for its purposes.

Sect. 19.  
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## CHAPTER V.

### MINERAL RIGHTS DUTY AND PROVISIONS AS TO MINERALS.

MINERALS are taxed under sects. 20 to 24 of the Act; these sections impose a duty of 5 per cent. on all royalties and wayleaves actually received by the owner, and increment value duty, payable in annual instalments, on all minerals not comprised in a mining lease, or being worked on the 30th day of April, 1909; they enact that no reversion duty shall be payable on the determination of a mining lease, and sect. 16, sub-s. (4) enacts that undeveloped land does not include the minerals for the purpose of undeveloped land duty. Sects. 23 and 24 contain a number of new definitions with regard to minerals, and it is thought advisable to discuss these definition sections before proceeding to consider the three preceding sections. It is important to note that the word "minerals" is not defined; the only light that is thrown on the subject is that the duties are not to be charged on the minerals enumerated in sect. 20, sub-s. (5), and that sect. 24 refers to any colliery, mine, quarry, or open working. It may, however, be safely assumed that a narrow interpretation will not be put upon the word.

#### *Application of Provisions as to Total and Site Value to Minerals.*

Sect. 23.  
—  
Application  
of provisions  
as to total  
and site value  
to minerals.

23.—(1) For the purposes of this Part of this Act, the total value of minerals means the amount which the fee simple of the minerals, if sold in the open market by a willing seller in their then condition, might be expected to realise, and the capital value of minerals means the total value, after allowing such deduction (if any) as the Commissioners may allow for any works executed or

expenditure of a capital nature incurred bonâ fide by or on behalf of any person interested in the minerals for the purpose of bringing the minerals into working, or where the minerals have been partly worked, such deduction as is, in the opinion of the Commissioners, proportionate to the amount of minerals which have not been worked. Sect. 23,  
sub-s. (1).

(2) For the purposes of valuation under this Part of this Act, all minerals shall be treated as a separate parcel of land; but where the minerals are not comprised in a mining lease or being worked, they shall be treated as having no value as minerals, unless the proprietor of the minerals, in his return furnished to the Commissioners, specifies the nature of the minerals and his estimate of their capital value.

Minerals which are comprised in a mining lease or are being worked shall be treated as a separate parcel of land, not only for the purposes of valuation, but also for the purpose of the assessment of duty under this Part of this Act.

(3) The provisions of this Part of this Act with respect to valuation shall not apply to minerals which were, on the thirtieth day of April, nineteen hundred and nine, either comprised in a mining lease or being worked by the proprietor, so long as they are for the time being either comprised in a mining lease or being worked by the proprietor, nor shall such provisions apply to any minerals which cease for a temporary period to be comprised in a mining lease or to be worked so long as the period does not exceed two years.

(4) Except where the context otherwise requires, any references in this Part of this Act to the site value of land shall, in cases where the land consists solely of minerals, or comprises minerals, be construed, so far as respects the minerals, as a reference to the capital value of the minerals.

Sub-s. (1) defines the total value of minerals as the amount which the fee simple would fetch in the open market. It corresponds closely with the definition of the gross value of land in sect. 25, sub-s. (1).

## Sect. 23.

Capital value is defined as the total value less such deduction as the Commissioners may allow for any works executed or capital expenditure incurred to bring the minerals into working, or where the minerals have been partly worked, a deduction proportionate to the unworked minerals. It corresponds closely with the definition of the site value of land in sect. 25, sub-s. (4).

Sub-s. (2) enacts that all minerals shall be treated as a separate parcel of land, that minerals comprised in a mining lease or being worked shall be valued separately from minerals not so comprised or not being worked. It further enacts that where the minerals are not comprised in a mining lease, or being worked, their value is to be taken as nil, unless the proprietor specifies in his return under sect. 26, sub-s. (2), their nature and capital value.

This provision will put the owner of unworked minerals in a quandary; if there is considerable doubt as to their existence, and he makes no return as to them, he will be liable for 20 per cent. of their entire value when they are discovered and worked. If on the other hand he does not wish to run this risk, and sets a hypothetical value on the minerals, he and his successors will be charged with estate and succession duty on minerals which may not exist.

Sub-s. (3) enacts that the valuation provisions in sects. 26 and 27 shall not apply to minerals which were on the 30th day of April, 1909, comprised in a mining lease or being worked by the proprietor, so long as they are so comprised or being worked; and if they ceased to be so comprised or worked for a temporary period not exceeding two years, this relief is not to be forfeited.

Sub-s. (4) states the practical identity of the expressions, site value of land, and capital value of minerals, which may be inferred from sub-s. (1).

*Definitions for purpose of Mineral Provisions.*

Definitions  
for purpose  
of mineral  
provisions.

24. For the purpose of the provisions of this Act as to minerals—

The expression "proprietor" means the person for the time being entitled in possession to the minerals, or to the rents and profits thereof, or any part of those

rents and profits, but does not include a person entitled as lessee other than a person entitled to the possession of land comprised in a lease for any long term of years to which section sixty-five of the Conveyancing and Law of Property Act, 1881, applies; Sect. 24.  
—  
44 & 45 Vict.  
c. 41.

The expression "rent" includes yearly or other rent, and shall, in addition to the meaning assigned to it for the general purposes of this Part of this Act, be construed as including any fine, premium, or foregift, and any payment, consideration, or benefit in the nature of a fine, premium, or foregift;

Where any rent is paid or rendered otherwise than in money or money's worth, the amount of the rent shall be taken to be such sum as the Commissioners consider to be the value thereof;

The expression "mining lease" means a lease for mining purposes, that is, for searching for, winning, working, getting, making merchantable, carrying away, or disposing of, mines and minerals, or purposes connected therewith, and includes an agreement for such lease, or any tenancy or licence, whether by deed, parol, or otherwise for mining purposes, and the expressions "lessor" and "lessee" shall in addition to the meaning assigned to them for the general purposes of this Part of this Act be construed so as to include respectively a licensor and a licensee;

The expression "working lessee" means as respects the right to work minerals the lessee who is actually working the minerals, or who would have the right actually to work the minerals if the minerals were worked, and as respects mineral way-leaves the lessee who is in actual enjoyment of the way-leave, and the expression "immediate lessor" shall be construed accordingly;

The expression "working year" means the year ending the thirtieth day of September, or such other day as may in any case be approved by the Commissioners;

**Sect. 24.**  

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and the expression "last working year" means the working year completed immediately before the first day of January in any financial year for which the duty is paid;

The expression "mineral way-leave" means any way-leave, air-leave, water-leave, or right to use a shaft granted to or enjoyed by a working lessee, whether above or under ground, for the purpose of access to or the conveyance of the minerals, or the ventilation or drainage of his mine or otherwise in connexion with the working of the minerals.

Where any minerals are at any time being worked by means of any colliery, mine, quarry, or open working, all the minerals which belong to the same proprietor, if the minerals are being worked by the proprietor, or which the lessee has power to work if the minerals are being worked by a lessee, and which would, in the ordinary course of events, be worked by the same colliery, mine, quarry, or open working, shall be deemed to be minerals which are being worked at that date.

Minerals which are being won for the purpose of being immediately worked shall be deemed to be minerals which are being worked.

Minerals shall be deemed to be comprised in a mining lease if the right to work the minerals is the subject of a mining lease, or if the minerals are being worked under the terms of such a lease, although the lease has expired.

Where the circumstances of a district are such that in the opinion of the Commissioners it is impracticable to fix any sum which satisfactorily represents a rent customary in the district, the rent which would be paid under similar circumstances and ordinary conditions elsewhere than in the district shall be substituted for the rent customary in the district.

The definition of "proprietor of minerals" must be



distinguished from that of the owner of land. The latter, as we have seen, means the person entitled in possession to the rents and profits of the land for a freehold estate, or where the land is leased for a term of which more than fifty years are unexpired, the lessee under the lease. "Proprietor" means the person for the time being entitled in possession to the minerals or the rents and profits thereof, but a lessee is not included, unless he holds for an unexpired residue of at least 200 years of an original term of at least 300 years at a peppercorn rent, as sect. 65 of the Conveyancing and Law of Property Act, 1881, enacts as follows :—

Sect. 24.  
—

Where a residue unexpired of not less than two hundred years of a term which, as originally created, was for not less than three hundred years, is subsisting in land, whether being the whole land originally comprised in the term, or part only thereof, without any trust or right of redemption affecting the term in favour of the freeholder, or other person entitled in reversion expectant on the term, and without any rent, or with merely a peppercorn rent or other rent having no money value, incident to the reversion, or having had a rent, not being merely a peppercorn rent or other rent having no money value, originally so incident, which subsequently has been released, or has become barred by lapse of time, or has in any other way ceased to be payable, then the term may be enlarged into a fee simple in the manner, and subject to the restrictions in this section provided.

It may here be noted that the rent under a mining lease is generally a varying quantity, being often a royalty upon the amount extracted, but with a minimum amount fixed, called the dead rent. If the royalty does not amount to the dead rent, the deficiency is usually allowed for in a subsequent successful year, but this principle has not been adopted with regard to increment value duty.

The definition of "mining lease" evidently includes a sub-lease, as sub-leases are specially dealt with in sect. 21. The "working lessee" is as regards minerals, the lessee actually working them or entitled to do so, and as regards way-leaves, the lessee in actual enjoyment of same; the lessor under whom the working lessee holds is the "immediate lessor."

It should be noted in the definition of "last working year" that the financial year runs from the 1st day of April till the 31st day of March.

Sect. 24. "Mineral way-leaves" are only to be taxed if granted to or enjoyed by the "working lessee."

*Mineral Rights Duty and Provisions as to Minerals.*

Mineral  
rights duty.

20.—(1) There shall be charged, levied, and paid for the financial year ending the thirty-first day of March nineteen hundred and ten and every subsequent financial year on the rental value of all rights to work minerals and of all mineral wayleaves, a duty (in this Act referred to as a mineral rights duty) at a rate in each case of one shilling for every twenty shillings of that rental value.

(2) The rental value shall be taken to be—

- (a) Where the right to work the minerals is the subject of a mining lease, the amount of rent paid by the working lessee in the last working year in respect of that right; and
- (b) Where minerals are being worked by the proprietor thereof, the amount which is determined by the Commissioners to be the sum which would have been received as rent by the proprietor in the last working year if the right to work the minerals had been leased to a working lessee for a term and at a rent and on conditions customary in the district, and the minerals had been worked to the same extent and in the same manner as they have been worked by the proprietor in that year:

Provided that the Commissioners shall cause a copy of their valuation of such rent to be served on the proprietor; and

- (c) In the case of a mineral wayleave, the amount of rent paid by the working lessee in the last working year in respect of the wayleave:

Provided that if in any special case it is shown to the Commissioners that the rent paid by a working lessee exceeds the rent customary in the district, and partly represents a return for expenditure on the part of any proprietor of the minerals which would ordinarily have

been borne by the lessee, the Commissioners shall substitute as the rental value of the right to work the minerals or the mineral wayleaves, as the case may be, such rent as the Commissioners determine would have been the rent customary in the district if the expenditure had been borne by the lessee.

Sect. 20.  
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(3) Every proprietor of any minerals and every person to whom any rent is paid in respect of any right to work minerals or of any mineral wayleave shall, upon notice being given to him by the Commissioners requiring him to give particulars as to the amount received by him in respect of the right or wayleave, as the case may be, and where the proprietor is working the minerals, particulars as to the minerals worked, make a return in the form required by the notice, and within the time, not being less than thirty days, specified in the notice, and in default shall be liable to a penalty not exceeding fifty pounds to be recovered in the High Court.

(4) Mineral rights duty shall be assessed by the Commissioners and shall be payable at any time after the first day of January in the year for which the duty is charged, and any such duty for the time being unpaid shall be recoverable as a debt due to His Majesty from the proprietor of the minerals, where the proprietor is working the minerals, and in any other case from the immediate lessor of the working lessee. As between the immediate lessor and the working lessee, the duty shall be borne by the immediate lessor, notwithstanding any contract to the contrary, whether made before or after the passing of this Act.

(5) Mineral rights duty shall not be charged in respect of common clay, common brick clay, common brick earth, or sand, chalk, limestone, or gravel.

This section imposes an annual duty upon all minerals being worked, whether they were being worked at the time of the passing of the Act or not.

Sub-s. (1) imposes an annual duty, called mineral rights duty, of 5 per cent. on the rental value of all rights to work minerals and of all mineral wayleaves, the first payment to be for the year ending the 31st day of March, 1910.

## Sect. 20.

Sub-s. (2) (a) defines the rental value as the rent paid by the working lessee in the last working year for a right to work minerals.

Sub-s. (2) (b) defines the rental value, where the minerals are being worked by the proprietor, as the rent which the proprietor would have received from a lessee working them to the same extent as they are worked by the proprietor.

The various terms used in the sub-section are defined in sect. 24. The last working year is not defined, but presumably the duty for the year ending the 31st day of March, 1910, would be on the rent paid for the year ending the 30th day of September, 1909. It should be noted that the rent includes any fine paid, and that duty at 5 per cent. will be charged upon such fine.

Sub-s. (2) (c) defines the rental value of a mineral wayleave as the rent paid by the working lessee for same.

The proviso contains a provision for the reduction of the rental value when the rent paid represents a return for expenditure by the proprietor which would ordinarily have been borne by the lessee.

Sub-s. (3) requires every proprietor of minerals, and the receiver of rent for minerals or wayleaves, to give particulars to the Commissioners, if required by them, subject to a penalty not exceeding £50.

Sub-s. (4) states that the Commissioners are to assess the duty, that it is to be payable after the 1st day of January, and shall be recoverable as a debt due to His Majesty. See as to this the recovery of increment value duty, in the notes to sect. 4, sub-s. (4). Where the proprietor is working the minerals, he is to pay the duty. Where the right to work the minerals or wayleave is leased, the immediate lessor is to pay it, despite any contract to the contrary, whether made before or after the passing of the Act.

Sub-s. (5) exempts certain common minerals from the duty.

*Deduction of Duty in Case of Intermediate Leases of Minerals.*

Deduction of  
duty in case

21.—(1) Any immediate lessor who under this Act pays any mineral rights duty, and is himself a lessee of

the right to work the minerals or of the wayleave in respect of which the duty is paid, shall be entitled to deduct from the rent paid by him in respect of the right to work the minerals or the wayleave, as the case may be, to his lessor a sum equal to the mineral rights duty on a rental value of the same amount as the rent payable; and any person from whose rent any such deduction is made may make a similar deduction from any rent paid by him in respect of the right to work the minerals or in respect of the wayleave, as the case may be.

Sect. 21,  
sub-s. (1).  
—  
of inter-  
mediate  
leases of  
minerals.

(2) Any person in receipt of rent from which a deduction may be made under this section shall allow the deduction, and the person making the deduction shall be discharged from the payment of an amount of rent equal to the amount deducted, and any contract for the payment of rent without allowing such a deduction shall be void.

(3) If any person refuses to allow a deduction which he is required to allow under this section, he shall be liable to a penalty not exceeding fifty pounds to be recovered in the High Court.

(4) Where in any special case mineral rights duty has been charged on a rental value based on a rent which has been substituted under the provisions of this Act for the rent actually payable by the working lessee, or where in any special case the rental value with reference to which increment value duty is charged has been reduced under the provisions of this Act for the purposes of the collection of that duty, the Commissioners shall, on the application of any lessor from whose rent a deduction may be made in respect of mineral rights duty or increment value duty, as the case may be, make a corresponding substitution or reduction as regards that rent, if they consider that the grounds for the substitution or reduction, as the case may be, are applicable in the case of the rent with respect to which the application is made.

The object of sub-s. (1) is to charge the middleman with the duty only on the profit rent he receives, and the actual proprietor with the duty on the whole of the rent he receives. The immediate lessor, who pays to the Crown

Sect. 21. 5 per cent. on the rent he receives, is entitled to deduct from his lessor 5 per cent. of the rent which he pays to the latter ; such lessor, if not the proprietor, is entitled to make a similar deduction, and so on.

Sub-s. (2) enacts that the receiver of rent shall allow such deduction, despite any contract to the contrary.

Sub-s. (3) imposes a penalty not exceeding £50 for refusing to allow such a deduction.

Sub-s. (4) provides for a deduction on the rental value as determined by the proviso to sect. 20, sub-s. (2), or sect. 22, sub-s. (4), instead of on the rent.

*Special Provisions as to Increment Value Duty and Reversion Duty in the case of Minerals Worked or Leased.*

Special provisions as to increment value duty and reversion duty in the case of minerals worked or leased.

22.—(1) No reversion duty shall be charged on the determination of a mining lease, and no increment value duty shall be charged on the occasion of the grant of a mining lease or in respect of minerals which are comprised in a mining lease, or are being worked, except as a duty payable annually in manner provided by this Act.

(2) Increment value duty shall not be charged in the case of any minerals which were, on the thirtieth day of April nineteen hundred and nine, either comprised in a mining lease or being worked by the proprietor, so long as the minerals are for the time being either comprised in a mining lease, or being worked by the proprietor :

Provided that the exemption under this section shall continue to apply in the case of any minerals, although they cease for a temporary period to be comprised in a mining lease or to be worked, so long as the period does not exceed two years.

(3) Increment value duty in respect of the increment value of minerals which are comprised in a mining lease or are being worked shall, where that duty is chargeable be charged annually ; and the increment value shall, instead of being estimated as a capital sum, be taken to be the sum (if any) by which, in each year during which the lease continues or the minerals are being worked, as the case may be, the rental value on which mineral rights duty

is charged in respect of the right to work the minerals exceeds the annual equivalent of the original capital value of the minerals, or the capital value of the minerals on the last preceding occasion on which increment value duty has been collected otherwise than as an annual duty, if increment value duty has been so collected before the minerals have become comprised in a mining lease or have commenced to be worked; and the annual equivalent of any such capital value of the minerals shall be taken to be two twenty-fifth parts of that capital value.

Sect. 22,  
sub-s. (3).

(4) If in any case it is shown to the Commissioners that the rental value on which mineral rights duty is charged represents in part a return for money expended within fifteen years by a lessor in boring or otherwise proving the minerals, the rental value shall be reduced for the purposes of the collection of increment value duty by the amount which represents that return.

(5) Increment value duty payable annually under this section shall, instead of being collected as provided by this Act in other cases, be recoverable in the same manner as mineral rights duty, with the same right of deduction.

(6) Any proprietor or lessor of any minerals who pays increment value duty in pursuance of this provision shall be entitled to be relieved in any year from the payment of mineral rights duty, as such proprietor or lessor, up to the amount paid by him in that year in respect of increment value duty.

For the purposes of this provision, a deduction of any amount from the rent payable to a lessor on account of mineral rights duty shall be deemed to be a payment of that duty, and the relief may be given either by allowance or repayment or both of those means, as the occasion may require.

(7) Where minerals cease to be comprised in a mining lease or to be worked within the meaning of this section, the capital value of the minerals at the time shall be specially ascertained in accordance with the provisions of this Act, and the capital value as so ascertained shall be treated as the original capital value of the minerals.

**Sect. 22,** (8) Nothing in this section shall apply to minerals  
**sub-s. (8).** which are exempt from mineral rights duty under this  
 — Act.

Sub-s. (1) states that no reversion duty shall be charged on the determination of a mining lease, and that no increment value duty shall be charged on the grant of a mining lease, or in respect of minerals which are comprised in a mining lease, or are being worked, except as a duty payable annually under sub-s. (3).

It must be noted that increment value duty is payable on the death of the proprietor of minerals or the sale of the fee simple of minerals (an unusual event unless the surface land is also sold) when those minerals are not comprised in a mining lease or being worked, just as if the minerals were land, and the duty is payable upon the increment in the capital value of the minerals.

Sub-s. (2) exempts entirely from increment value duty minerals which were on the 30th day of April, 1909, comprised in a mining lease, or being worked by the proprietor, so long as they are comprised in such lease or being worked. The exemption is to continue to apply, although they cease for a temporary period not exceeding two years to be so comprised or worked. It should be noted that this sub-section does not give any relief in respect of mineral rights duty charged by sect. 20.

Sub-s. (3) provides for an annual payment of increment value duty upon minerals which are not exempted under the last sub-section. The increment value is ascertained as follows. Take a property of which the original capital value is £12,500. The annual equivalent of such capital value is  $\frac{2}{25}$ ths thereof, £1000. Suppose the minerals are leased, and the owner receives £3000 for royalties; the increment value is £2000, and duty at 20 per cent. is paid thereon. Next year the royalties may go up to £5000; the increment value is £4000, and duty at 20 per cent. is paid thereon. If the royalties go down the next year to £800, there is no increment value, and no duty is payable. It will be seen therefore that the amount of duty payable by a lessor will depend upon the rate at which his lessee works the minerals, and that an irregular rate of working will be prejudicial to him. Future mining leases will probably try to regulate the yearly output. In the



case of minerals worked by the proprietor, for the sums of £3000, £4000, and £800 must be substituted the rental value under sect. 20, sub-s. (2) (b). Sect. 22.  
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It will be seen, therefore, that when under the provisions of sect. 20, sub-s. (2), minerals are treated as of no value, the State will ultimately receive 20 per cent. of the rental value of these minerals when worked.

It should be noted that when increment value duty has been paid on the minerals otherwise than as an annual duty, that is to say, upon the death of the proprietor, a sale of the minerals, for the original capital value must be substituted the capital value ascertained upon the occasion of such payment.

Sub-s. (4) provides for a reduction of the rental value of leased minerals in case of the lessor having spent money, within fifteen years, in boring or proving the minerals.

Sub-s. (5) provides for the collection of increment value duty under this section annually as if it were mineral rights duty, with the same right of deduction. Presumably the whole of sect. 21 will apply to increment value duty payable annually, as if it were mineral rights duty.

Sub-s. (6) provides against the payment of both increment value duty and mineral rights duty. In the case mentioned in sub-s. (3) no mineral rights duty will be paid for the first and second years, but as no increment value duty is payable for the third year, minerals rights duty at 5 per cent. on £800 will be payable. If in the fourth year the royalties amount to £1100, increment value duty, £20, will be paid; mineral rights duty will be charged at 5 per cent. of £1100, £55, but only £35 will be payable, as a deduction is made of the £20 paid for increment value duty.

Sub-s. (7) is intended to meet the fact that, unlike land which often rises in value, the minerals in a lease are less valuable at the end of a lease than at the beginning. The sub-section provides that where minerals cease to be comprised in a lease or to be worked, *i.e.* when a period of more than two years has elapsed from the time of their being so comprised or worked, the capital value at the time shall be ascertained and shall be treated as the original capital value. In the case of minerals exempted under sub-s. (2) this will be the first occasion on which their capital value has been ascertained; as regards other minerals, they will have been previously valued

- Sect. 22.** — as at the 30th day of April, 1909, if a return of the minerals has been made, on the death of the owner, a sale of their fee simple by the owner, or on the occasion of their being leased or first worked. It was recognised that the minerals left unworked form really a new entity, and it is on such new entity that the duties should subsequently be imposed.

## CHAPTER VI.

### PROVISIONS AS TO VALUATION.

#### *Valuation of Land for purposes of Act.*

26.—(1) The Commissioners shall, as soon as may be after the passing of this Act, cause a valuation to be made of all land in the United Kingdom, showing separately the total value and the site value respectively of the land, and in the case of agricultural land the value of the land for agricultural purposes where that value is different from the site value. Each piece of land which is under separate occupation, and, if the owner so requires, any part of any land which is under separate occupation, shall be separately valued, and the value shall be estimated as on the thirtieth day of April nineteen hundred and nine.

Sect. 26, sub-s. (1).  
Valuation of land for purposes of Act.

(2) Any owner of land and any person receiving rent in respect of any land shall, on being required by notice from the Commissioners, furnish to the Commissioners a return containing such particulars as the Commissioners may require as to the rent received by him, and as to the ownership, tenure, area, character, and use of the land, and the consideration given on any previous sale or lease of the land, and any other matters which may properly be required for the purpose of the valuation of the land, and which it is in his power to give, and, if any owner of land or person receiving any rent in respect of the land is required by the Commissioners to make a return under this section, and fails to make such a return within the time, not being less than thirty days, specified in the notice requiring a return, he shall be liable to a penalty not exceeding fifty pounds to be recoverable in the High Court.

(3) Any owner of land may, if he thinks fit, furnish to

**Sect. 26,** the Commissioners his estimate of the total value or site  
**sub-s. (3).** value or both of the land, and the Commissioners, in  
— making their valuation, shall consider any estimate so  
furnished.

Sub-s. (1) provides for a valuation being made by the Commissioners of all land in the United Kingdom, showing separately the total value, the site value, and, in the case of agricultural land, the agricultural value, if that value is different from the site value. As it is impossible to say before valuation if there is any such difference, the agricultural value will, presumably, always have to be ascertained. Each piece of land in separate occupation, and if the owner so desires, any part of any land in separate occupation, is to be separately valued. It must be noted that the owner of two plots of land in separate occupation cannot get them valued together; in such a case, if one plot rose in value and the other fell, the rise could be put against the fall, and as a result no increment value might be payable. Under the Act, however, increment value duty will have to be paid in respect of the increment value of the one plot, and no allowance will be made for the decrement of the other plot. It was put strongly in the debate in the Commons that a speculator in land might possibly have to pay a large sum in increment value duty, though the value of all his land taken together might show a loss, and it was strongly urged that the principle of assessing income tax upon the average of the last three years (where the loss of any one year is put against the profit of another) should be applied, but the plea was of no effect.

The total value, site value, and agricultural value are to be estimated as at the 30th day of April, 1909. It is submitted that the Commissioners will be guided to some extent by any dealings in the land between that date, and the date of their making the valuation; it will therefore be of importance in estimating the principal value for estate duty on deaths occurring before the valuation is made, not to follow the practice in vogue, that is to say, to put down as low a value as possible. Under sect. 2, sub-s. (2) (c), this will lead to a low site value being ascertained at the date of death, and consequently, in the case of a death soon after the 30th day of April, 1909, to a low original site value. The result will be that in the case of a sale of property at anything like its real

value, heavy increment value duty will be payable. This will doubtless have the effect of increasing the yield of the death duties on land, a result anticipated without doubt by the framers of the Act. It should be noted that these provisions apply to all land, whether exempted from certain duties or not; in fact it will be impossible to say whether land is exempted under sect. 7 from increment value duty, or under sect. 17 undeveloped land duty, until the valuation has been made.

Sect. 26.  
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Sub-s. (2) enacts that any owner or person receiving rent (in which expression an agent or receiver would seem to be included) must, on being required, furnish numerous particulars to the Commissioners, which it is in his power to give.

The form of return to be made has been issued, and will be found in Appendix E., at page 159. The official instructions for filling up the form will be found at page 165. It will be seen that the inquiries of the Commissioners are of a very searching nature and will involve the owner or agent in a large amount of trouble and expense. It should be particularly noted that the particulars asked for on page 164 need not be given by the owner unless he so desires. It will probably be better for him to await the issue of the provisional valuation, as possibly the official valuation may be more favourable to him than the values which he may assess upon his own property, and in any event he will not be prejudiced by not assessing the values himself.

The form mentioned in paragraph (V.) will be found at page 165. The right of the Commissioners to ask for this form to be filled up before the provisional valuation is made would seem to be very doubtful, and it will probably be advisable to abstain from giving the information.

It should be noted here that from the point of view of increment value duty it is in the owner's interest to have a high original site value; but if the land is undeveloped it will be in his interest to have it low. Also for death duties, a high site value will render it difficult to escape a high principal value, so the owner must try and steer a course between the Scylla of increment value duty and the Charybdis of undeveloped land duty, not to mention the shoals and reefs of the death duties.

It will be remembered that if no return is made as to

**Sect. 26.** — minerals not comprised in a mining lease or being worked, on the 30th day of April, 1909, their value will be taken as nothing, and the result will be that increment value duty will be payable upon the rental value of the minerals so soon as they are worked or leased, under sect. 22, sub-s. (2). If there are any such minerals, a separate return of them should be made.

*Ascertainment of the Original Site Value of Land.*

Ascertain-  
ment of the  
original site  
value of land.

**27.—(1)** The Commissioners shall cause a copy of their provisional valuation of any land to be served on the owner of the land, and, unless objection is taken to the provisional valuation in manner provided by this section, the values shown in the provisional valuation shall be adopted as the original total value and the original site value respectively for the purposes of this Part of this Act.

(2) If the owner considers that the total or site value, as stated in any provisional valuation, is not correct, he may, with a view to an amendment of the provisional valuation, within sixty days of the date on which the copy of the provisional valuation is served, or such extended time as the Commissioners may in any special case allow, give to the Commissioners notice of objection to the provisional valuation, stating the grounds of his objection and the amendment he desires, and, if the Commissioners amend the provisional valuation so as to be satisfactory to all persons making objections, the total and site value as stated in the amended valuation shall be adopted as the original total and the original site value for the purposes of this Part of this Act.

(3) The Commissioners may amend any provisional valuation, whether objected to or not, before it is finally settled, and the amended provisional valuation shall be deemed to be a provisional valuation for the purposes of this section.

(4) If the provisional valuation is not amended by the Commissioners so as to be satisfactory to any objector, that objector may give a notice of appeal under this Act with respect to the valuation, but, if no such notice is

given, the total and site value as stated in the provisional valuation, subject to such amendments as may be made by the Commissioners in order to meet objections, shall be adopted as the original total and the original site value respectively for the purposes of this Part of this Act. Sect. 27,  
sub-s. (4).

(5) Any person interested in the land, not being an owner, may apply to the Commissioners for a copy of the provisional valuation of the land before it is finally settled, and shall then have the same right of giving notice of objection and of appealing as the owner.

(6) Where the value to be adopted as the original total or the original site value of any land for the purposes of this Part of this Act has not been finally settled at the time when any duty under this part of this Act becomes leviable, any duty under this part of this Act shall be assessed as if the values as shown in the provisional valuation, or, if the provisional valuation has been amended by the Commissioners, as shown in the valuation as so amended, were the values adopted as the original total and site values for the purposes of this Part of this Act, and, on the values to be adopted being finally settled, if it is found that the amount which should have been paid as duty exceeds that actually paid, the excess shall be deemed to be arrears of the duty, except so far as any penalty is incurred on account of arrears, and, if it is found that the amount which should have been paid as duty is less than that actually paid, the difference shall be repaid by the Commissioners.

(7) Where a lessee is the owner of the land within the meaning of this Act, this section shall apply as if any person entitled to the fee simple reversion or to a leasehold reversion for a term of years exceeding twenty-one were the owner as well as the lessee.

Sub-s. (1) provides that the Commissioners are to serve a copy of their provisional valuation on the owner. The regulations for service are contained in sect. 31, sub-s. (4). Unless an objection is taken, as provided by sub-s. (2), these values are to be the original site value and original total value.

Sub-s. (2) enables a dissatisfied owner, within sixty days

**Sect. 27.** of service of the notice (or such extended time as may be allowed) to serve notice of objection. This notice is to give the grounds of objection, and the amendment desired. If an amendment is made by the Commissioners satisfactory to all persons objecting, the total and site value in the amended valuation are to be the original site value and original total value.

Sub-s. (3) gives the Commissioners power to amend a provisional valuation, whether objected to or not, before it is finally settled, and such amended valuation is to be deemed to be a provisional valuation.

Sub-s. (4) gives an objector who is dissatisfied with the amendment (if any) made under sub-s. (2) the right to give notice of appeal. This appeal will be considered in the notes to sect. 33. It should be noted that no notice of appeal can be given by any one who has not served notice of objection. If no appeal is taken, the total and site value in the provisional valuation, subject to the amendment made under sub-s. (2), are to be the original total value and original site value.

Sub-s. (5) extends the objecting and appealing rights of the owner to any one interested in the land, and entitles him to get a copy of the provisional valuation before it is finally settled. Apparently he would have sixty days from the receipt of such valuation in which to serve notice of objection. Any one interested in the land might be the owner of land let on lease for a term of which more than fifty years are unexpired, or a person entitled in reversion on the death of a tenant for life. No provision is made for the case of the land changing hands during the valuation period, but any purchaser would certainly be interested in the land, and would have the rights of objection and appeal.

Sub-s. (6) provides for assessment of any of the duties discussed in Chaps. II. to V. on the values shown in the provisional, or amended provisional, valuation. If the duty is overpaid, the excess is to be returned without interest, when the values are finally settled, and when the amount of duty paid is found to be too little, the unpaid duty is to be paid as if it were arrears. Unpaid increment value duty on transfers and leases of land is liable to interest at 5 per cent. per annum from the date of the execution of the instrument, and unpaid increment value duty on death bears interest at the rate of 3 per cent. per annum from the date of death in



the case of personal estate, and from twelve months after the date of death in the case of real estate. Unpaid reversion duty, undeveloped land duty, mineral rights duty, and increment value duty on minerals would not appear to be chargeable with interest.

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Sub-s. (7) provides that the provisional valuation must be served on the person entitled either to the fee simple reversion of leased land, or to a leasehold reversion for a term exceeding twenty-one years, as well as the lessee.

*Periodical Valuation of Undeveloped Land.*

28. For the purpose of obtaining a periodical valuation of undeveloped land the Commissioners shall, in the year nineteen hundred and fourteen and in every subsequent fifth year, cause a valuation to be made of undeveloped land showing the site value of the land as on the thirtieth day of April in that year, and, for the purpose of ascertaining the value at that time, the provisions of this Act as to the ascertainment of value shall apply for the purpose of ascertaining value on any such periodical valuation as they apply for the purpose of ascertaining the original value;

Periodical  
valuation of  
undeveloped  
land.

Provided that if on any such periodical valuation the valuation of any undeveloped land which is liable to undeveloped land duty is for any reason begun but not completed in the year of valuation, the Commissioners may complete the valuation after the expiration of the year of valuation, subject to an appeal under this Act.

Under the provisions of sect. 16, sub-s. (1) and sub-s. (3), undeveloped land duty is paid on the site value, which is the original site value, or where the site value has been ascertained under any subsequent periodical valuation, the site value as so ascertained. This section states that the site value is to be ascertained in the year 1914, and every subsequent fifth year, as on the 30th day of April in that year, and such value shall be ascertained in the same manner as the original site value. It would appear that no dealings with the land necessitating the ascertainment of the site value will exempt the land from the quinquennial valuation. As the duty will

Sect. 28. — only be charged in the case of agricultural land on the excess of the site value over the agricultural value (sect. 17, sub-s. (2)), it will be necessary to ascertain the agricultural value at each periodical valuation. The site value on any periodical occasion is to be ascertained in exactly the same manner as that provided for the ascertainment of original site value, and all the provisions as to objection and appeal apply.

The proviso to the section gives the Commissioners power to complete the valuation after the year of valuation, if begun in such year, but they do not seem to have power to complete the valuation unless they have taken some step in the valuation year; that is to say, they must have made the provisional valuation. The words "subject to an appeal under this Act" have not any obvious meaning; they can hardly mean that an appeal lies against the power of the Commissioners to complete their valuation, so presumably they mean that there is an appeal against such completed valuation.

*Assessment of Duty on separate Parcels of Land and Apportionment of Valuation.*

Assessment of duty on separate parcels of land and apportionment of valuation.

29.—(1) Any duty under this Part of this Act may be assessed on or in respect of any such pieces of land, whether under separate occupation or not, as the Commissioners think fit.

(2) The Commissioners shall make such apportionments and re-apportionments of any original site value or any site value fixed on a periodical valuation as they consider necessary for the purpose of the collection or assessment of increment value duty or undeveloped land duty, or which they may be required at any time to make on the application of any person entitled to the fee simple of any land or to an interest in any land.

On any such apportionment or re-apportionment for the purpose of the collection of increment value duty on the occasion of the transfer on sale of the fee simple of the land or any interest in the land, or on the occasion of the grant of any lease of the land, the consideration for the transfer, or for the grant of the lease, shall be treated as one of the matters to which regard must be had in making the apportionment or re-apportionment.

(3) The provisions relating to the procedure on the valuation of land for the purposes of this Part of this Act shall apply with respect to the apportionment or re-apportionment of site value under this section as they apply with reference to the ascertainment of the original site value of land. Sect. 29,  
sub-s. (3).

(4) The value attributed on any such apportionment or re-apportionment to each part of the land shall, for the purposes of this Part of this Act, be treated as the original site value or the site value of the land, as the case may be.

Under the provisions of sect. 26, sub-s. (1), each piece of land in separate occupation, and if the owner requires, any part of any land in separate occupation, is to be separately valued. The effect of this has been considered in the notes to sect. 26. An even greater hardship may, it seems, be inflicted by the exercise of the powers given to the Commissioners by sub-s. (1). Take the case of a piece of land in one occupation, which passes on the death of the owner, part of which has gone up in value, and part down. It appears that the Commissioners could assess the former with increment value duty, though the land, if valued as a whole, would not be liable. It is difficult to see how an appeal could lie against an arbitrary exercise by the Commissioners of the power given to them by this sub-section.

Sub-s. (2) gives the Commissioners power to apportion and re-apportion the original site value, or any site value fixed on a periodical occasion, *i.e.* the site value of land held by a body corporate or unincorporate, or the site value for undeveloped land duty. These powers will have to be very frequently exercised; it was pointed out in the debate in the Commons that the actual dealings, quite few in number, which had taken place in connection with a small estate, would, if the Act had been in operation at the time, have necessitated 256 apportionments. In the case of an estate which is being developed, it is impossible to get an original site value fixed on each parcel of land as it will be sold, owing to the fact that it is impossible to tell exactly in what parcels the land will be sold. The result will be that as each plot is sold or leased, the original site value will have to be apportioned between the plot carved out of the estate and the

**Sect. 29.** — rest. This will involve a reconsideration of all the elements of deduction in sect. 25, as applied to each plot; the Commissioners are to be guided by the consideration for the transfer or for the grant of the lease, when the apportionment is necessitated by a sale of the fee simple, or any interest in the land, or on the grant of a lease of the land. For example, the site value of 10 acres of land is ascertained to be £1000, so that the average site value per acre is £100. Four acres are sold for £200; in apportioning the site value of £1000 between the four acres that have been sold, and the six acres unsold, regard must be had to the fact that the four acres realised only £50 per acre. Unless some special circumstances show an actual decrease in the value of the four acres, this will bring about a larger site value than £100 per acre being put upon the six acres, and a consequent decrease of increment value duty payable upon their sale. It should be noted that the original site value cannot be increased or diminished; it must simply be apportioned over the pieces of the land in respect of which it was ascertained as a whole.

Sub-s. (3) states that such apportionment or re-apportionment shall be made as if it were an ascertainment of the original site value.

Sub-s. (4) enacts that such apportioned value shall be treated as the original site value, or the site value, as the case may be.

*Duties of Commissioners as to keeping Records and giving Information.*

Duties of Commissioners as to keeping records and giving information.

**30.—(1)** The Commissioners shall record particulars of all valuations, apportionments, re-apportionments, and assessments made by them under this Part of this Act, and of any deductions allowed in determining any value, and of the amount of any duty paid under this Part of this Act in respect of any land.

(2) The Commissioners shall furnish to any person interested in any land, or to any person authorised by any person so interested, on his application and on payment of such fee, not exceeding two shillings and sixpence, as the Commissioners may fix with the approval of the Treasury, copies of any particulars so recorded by them

relating to the land, certified, if required, by a Secretary or Assistant Secretary to the Commissioners. Sect. 30.

Sub-s. (1) provides for the Commissioners recording particulars of all valuations, apportionments, re-apportionments, and assessments made by them, and presumably any variations in same made on objection or appeal, and also of any deductions allowed, and of the amount of any duty paid.

Sub-s. (2) obliges them to furnish a copy of such particulars to any person interested in the land, which would include the owner of the fee simple in possession, the lessee, the reversioner on such lease, the reversioner on a tenant for life, etc.

It is evidently intended that this record will not be open for public inspection, but an intending purchaser or lessee will certainly ask to be furnished by the transferor or lessor with a copy of the particulars, as the values which had been ascertained from time to time, and the amount of duty already paid might considerably influence the price or rent which he would be willing to pay. With regard to a general right to inspect this register, the answers given in the Commons from time to time were absolutely contradictory, so the above statement is made with some hesitation.

### *Information as to Names of Owners of Land.*

31.—(1) Every person who pays rent in respect of any land, and every person who as agent for another person receives any rent in respect of any land, shall, on being required by the Commissioners, furnish to them within thirty days the name and address of the person to whom he pays rent or on behalf of whom he receives rent, as the case may be. Information as to names of owners of land.

(2) For the purpose of the exercise of their powers or the performance of their duties under this Part of this Act in reference to the valuation of land, the Commissioners may give any general or special authority to any person to inspect any land and report to them the value thereof, and the person having the custody or possession of that land shall permit the person so authorised, on production of the authority of the Commissioners in that behalf, to

Sect. 31, inspect it at such reasonable times as the Commissioners  
sub-s. (2). consider necessary.

— (3) If any person wilfully fails to comply with the provisions of this section, he shall be liable to a penalty not exceeding fifty pounds to be recoverable in the High Court.

(4) Any notice requiring a return for the purpose of valuation, any copy of a provisional valuation, and any other notice or document which is required to be given or sent to an owner or a person interested in land under this Part of this Act by the Commissioners shall be sufficiently given or sent if sent by post to the address of the owner or person interested furnished to the Commissioners under the powers given by this section, or, if the address cannot be so ascertained, by leaving the notice or a copy of the document addressed to the owner or person interested with some occupier of the land, or, if there is no occupier, by causing it to be put up in some conspicuous place on the land.

Sub-s. (1) enacts that any payer of rent, or agent in the receipt of rent, must furnish to the Commissioners the name and address of the person to whom he pays the rent, or his principal, as the case may be.

Sub-s. (2) enacts that all persons in the occupation of land shall permit the person authorised in that behalf by the Commissioners to inspect the land.

Sub-s. (3) imposes a penalty not exceeding £50 for a wilful failure to comply with these sub-sections.

Sub-s. (4) provides that a notice, copy of provisional valuation, or other document can be served by the Commissioners by sending it by post to the address furnished under sub-s. (1), or, if it cannot be so ascertained, by leaving it, addressed to the owner or person interested, with an occupier of the land, or if none, by putting it up in some conspicuous place on the land. It is evident that it is quite possible that an owner may not receive a notice served in this way, so that every owner of land should take an early opportunity of sending to the Commissioners an address for service.

*Determination of Value of Consideration.*

32.—(1) Where the value of any consideration for a transfer or lease is to be determined for the purposes of this Part of this Act, that value shall, so far as the consideration consists of the payment of a capital sum, be taken to be the amount of that capital sum, and, so far as the consideration consists of a periodical money payment, be taken to be such sum as appears to the Commissioners to be the capital value of that payment.

Sect. 32,  
sub-s. (1).  
Determination of value of consideration.

(2) If the Commissioners are satisfied that any covenant or undertaking or liability to discharge any incumbrance, or, in cases where a nominal rent only has been reserved, any covenant or undertaking to erect buildings, or to expend any sums upon the property, has formed part of the consideration, the Commissioners shall allow such sum as they think just in respect thereof as an addition to the value of the consideration.

(3) Where it is necessary to apportion any consideration for the purposes of this Part of this Act as between properties included in any transfer or lease, the consideration shall be apportioned by the Commissioners in such manner as they determine.

Under sect. 2, sub-s. (2) (a) and (b), on the transfer of the fee simple of land the Commissioners have to ascertain the value of the consideration for the transfer, and on the transfer of any interest in land, or the grant of a lease of land, the value of the fee simple of the land, on the basis of the value of the consideration for the transfer of the interest or the grant of the lease.

Sub-s. (1) provides that the value of the consideration shall be any capital sum paid and the capital value of any periodical payment, such as rent.

Sub-s. (2) provides that the consideration for transfer or grant of a lease is to be increased in respect of a covenant to discharge an incumbrance. Further, in the case of leases reserving a nominal rent, a sum is to be added in respect of a covenant to erect buildings or to spend any sums upon the property. The effect of neglecting the value of a building or

**Sect. 32.** repairing covenant, when a substantial, but not a rack rent, has been reserved, will be to diminish the site value at the time of granting the repairing or building lease, and, consequently, the increment value duty payable on its being granted, but when the Commissioners come to assess reversion duty at the end of such repairing or building lease, the total value of the land at the time of granting the lease will also be reduced, which will have as its effect an increase in the reversion duty payable upon its determination. Compare the notes to sect. 13, sub-s. (2).

Sub-s. (3) enables the Commissioners to apportion the consideration, when necessary, as upon the sale or grant of a lease in one lot of two plots with separate site values.



## CHAPTER VII.

### APPEALS.

#### *Appeals to Referees.*

33.—(1) Except as expressly provided in this Part of Sect. 33. this Act, any person aggrieved may appeal within such sub-s. (1). time and in such manner as may be provided by rules Appeals to referees. made under this section against the first or any subsequent determination by the Commissioners of the total value or site value of any land; or against the amount of any assessment of duty under this Part of this Act; or against a refusal of the Commissioners to make any allowance or to make the allowance claimed, where the Commissioners have power to make such an allowance under this Part of this Act; or against any apportionment of the value of land or of duty or any assessment or apportionment of the consideration on any transfer or lease made by the Commissioners under this Part of this Act; or against the determination of any other matter which the Commissioners are to determine or may determine under this Part of this Act:

Provided that—

- (a) an appeal shall not lie against a provisional valuation made by the Commissioners of the total or site value of any land except on the part of a person who has made an objection to the provisional valuation in accordance with this Act; and
- (b) the original total value and the original site value and the site value as ascertained under any subsequent valuation shall be questioned only by means of an appeal against the

Sect. 33,  
sub-s. (1).

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determination by the Commissioners of that value where there is an appeal under this Act, and shall not be questioned in any case on an appeal against an assessment of duty.

(2) An appeal under this section shall be referred to such one of the panel of referees appointed under this Part of this Act as may be selected in manner provided by rules under this section, and the decision of the referee to whom the matter is so referred shall be given in the form provided by rules under this section and shall, subject to appeal to the Court under this section, be final.

(3) The referee shall determine any matter referred to him in consultation with the Commissioners and the appellant, or any persons nominated by the Commissioners and the appellant respectively for this purpose, and may, if he thinks fit, order that any expenses incurred by the appellant be paid by the Commissioners, and that any such expenses incurred by the Commissioners be paid by the appellant.

Any order of the referee as to expenses may be made a rule of the High Court.

(4) Any person aggrieved by the decision of the referee may appeal against the decision to the High Court within the time and in the manner and on the conditions directed by Rules of Court (including conditions enabling the Court to require the payment of or the giving of security for any duty claimed); and sub-sections two, three, and four of section ten of the Finance Act, 1894, shall apply with reference to any such appeal:

57 & 58 Vict.  
c. 30.

Provided that where the total or site value as alleged by the Commissioners of the property in respect of which the dispute arises does not exceed five hundred pounds, the appeal under this section may be to the county court for the county or place in which the appellant resides or the property is situate, and this section shall for the purpose of the appeal apply as if such county court were the High Court, and in every such case any party shall have a right of appeal to the Court of Appeal.

(5) Provision shall be made by rules under this section

with respect to the time within which and the manner in which an appeal may be made to a referee under this section, and with respect to the mode in which the referee to whom any reference is to be made is to be selected, and with respect to the form in which any decision of a referee is to be given, and with respect to any other matter for which it appears necessary or expedient to provide in order to carry this section into effect. Sect. 33,  
sub-s. (5).

Those rules shall be made by the Reference Committee, subject to the approval of the Treasury.

The Reference Committee for England shall consist of the Lord Chief Justice of England, the Master of the Rolls, and the President of the Surveyors' Institution.

The Reference Committee for Scotland shall consist of the Lord President of the Court of Session, the Lord Justice Clerk, and the Chairman of the Scottish Committee of the Surveyors' Institution.

The Reference Committee for Ireland shall consist of the Lord Chief Justice of Ireland, the Master of the Rolls in Ireland, and the President of the Surveyors' Institution.

The President of the Surveyors' Institution may, if he thinks fit, appoint any person, being a member of the council of that institution and having special knowledge of valuation in Ireland, to act in his place as a member of the Reference Committee in Ireland.

Sub-s. (1) gives to any person aggrieved, except as expressly provided, liberty to appeal in respect of a large number of matters.

The term "person aggrieved" is not defined, but it clearly includes every person who is or may be affected by the exercise by the Commissioners of any of the powers vested in them by the Act; in addition to the owner, it would include any one interested in the land, as to which see sect. 27 (7).

No appeal will be allowed on the decision by the Commissioners whether the access to woodlands, parks, gardens, or open spaces is of public benefit, sect. 17, sub-s. (3) (b), and on the decision by the Commissioners whether land will probably be continued to be used for games or other recreation, sect. 17, sub-s. (3) (d).

Sect. 33. In respect of the following matters an appeal will be allowed.

1. The first determination of the total value or site value of any land; sects. 26 and 27 show how the original total value and original site value are to be determined. Under sect. 23 the capital value of minerals is to be ascertained in the same method as if it were the site value of land.

2. Any subsequent determination of the total or site value of land.

These values have to be ascertained for the purpose of assessing increment value duty, on (a) the transfer of land, (b) the transfer of any interest in land or the grant of a lease of land, (c) the death of the owner of land or any interest in land, and (d) the year 1914 and every subsequent fifteenth year in the case of land held by a body corporate or unincorporate. In cases (a) and (b) the site value is to be determined from the value of the consideration for the transfer or lease, in (c) from the principal value for estate duty, but in case (d) the total and site values are to be determined in the manner prescribed by sects. 26 and 27 for arriving at the original total and site values. See sect. 2.

The subsequent determination of site value for the purpose of assessing undeveloped land duty will be in the year 1914 and every subsequent fifth year, and the site value is to be determined in the manner prescribed by sects. 26 and 27 for arriving at the original site value.

The subsequent determination of total value for the purpose of assessing reversion duty will be at the determination of the lease which gives rise to the claim for duty. The total value at the time the lease determines is to be determined in the manner prescribed by sects. 26 and 27 for arriving at the original total value. The total value at the time of the grant of the lease is to be determined in the manner prescribed by sect. 13, sub-s. (2).

As regards minerals, the total value and capital value are to be ascertained in the manner prescribed by sect. 23, sub-s. (1). Sect. 25, sub-s. (5), states that the provisions of that section are not to apply to minerals. It should be noted that no valuation will be made of minerals which were being worked or comprised in a mining lease on the 30th day of April, 1909, while so worked or comprised, in the extended sense of sect. 23, sub-s. (3).

## 3. The amount of any assessment of duty.

Once the total and site values are ascertained, including any necessary apportionment and reapportionment of previously ascertained values and previously paid duties, the only other ground of appeal under this head would seem to be as to the amount of duty which the Commissioners, under sect. 3, sub-s. (1), are to determine to be unsatisfied.

## 4. Refusal to make any allowance, or the allowance claimed.

Under sect. 14, sub-s. (3), the Commissioners are to make an allowance in respect of reversion duty when a lease is surrendered and a new lease granted.

Under sect. 14, sub-s. (4), the Commissioners are to provide against the overlapping of increment value duty and reversion duty.

Under sect. 16, sub-s. (3), the site value of land for undeveloped land duty is to be reduced by five times the increment value duty paid thereon.

Under sect. 22, sub-s. (6), the payment of increment value duty on minerals gives relief against the payment of mineral rights duty.

## 5. Any apportionment of the value of land.

Under sect. 29, sub-s. (2), the Commissioners are to make such apportionments and reapportionments as they consider necessary. It should be noted that sub-s. (3) applies to such apportionment or reapportionment the provisions of sects. 25 and 26.

Under sect. 17, sub-s. (4), the Commissioners are to divide the total annual value of a dwelling-house, gardens, and pleasure grounds, and other land, all valued together for income tax under Schedule A.

Under sect. 8, sub-s. (3), the Commissioners are given almost similar powers.

## 6. Any apportionment of duty.

Under sect. 3, sub-s. (1), the Commissioners are to apportion increment value duty previously paid to enable them to determine the duty which is deemed to be unsatisfied.

## 7. Any assessment or apportionment of the consideration on any transfer or lease.

Under sect. 2, sub-s. (2) (a) and (b), and sect. 32, the Commissioners have to ascertain the value of the consideration for a transfer or lease, and to apportion same, if necessary.

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8. The determination of any other matter which the commissioners are to, or may, determine.

It is not proposed to give a list of these matters, as it is submitted that all matters which are to be determined by the Commissioners, that is to say, when they have to determine certain matters, to form an opinion on certain matters, be satisfied as to certain matters, where certain matters have to be proved to them, when they require certain matters to be done (and all these phrases are used in the Act), then each of those matters forms a subject matter for appeal. If this were not so, the concluding paragraph of sect. 17, sub-s. (3), would be without meaning; that paragraph runs as follows: "The opinion of the Commissioners as to matters which are expressed to be matters for the opinion of the Commissioners shall be final and not subject to any appeal." Again sect. 25, sub-s. (3), states that the opinion of the Commissioners shall in this case be subject to an appeal to the referee, whose decision shall be final. It would seem that the limited power of appeal is inserted here, not as granting an exceptional right of appeal against the opinion of the Commissioners, but to show the way in which the ordinary right of appeal is cut down. This view is supported by the presence of the words, "Except as expressly provided" at the beginning of sect. 33.

Proviso (a) must be carefully noted; under it, no one can appeal against a provisional valuation who has not made an objection to the provisional valuation under the provisions of sect. 27, sub-s. (2). This provisional valuation is made when ascertaining the original total and site values, the periodical occasions for ascertaining site value for the purpose of assessing the increment value duty payable by a body corporate or unincorporate, that is to say, the year 1914, and every subsequent fifteenth year, the periodical occasions for ascertaining the site value of undeveloped land for the purpose of assessing undeveloped land duty, that is to say, the year 1914, and every subsequent fifth year, and on the determination of a lease for the purpose of assessing reversion duty. In all these cases no appeal will lie, unless an objection is made, the object being to give the Commissioners an opportunity of trying to come to an agreement with the objector under the provisions of sect. 27, sub-s. (2), and thus saving the expense and trouble of an appeal.

Proviso (b) prevents any one from using the power of

appealing against the assessment of duty as a means really of appealing against the original total or site value, or any site value subsequently ascertained. The matter of these values will not be reopened on the hearing of an appeal against the amount of duty assessed, but all the other matters enumerated in sect. 33, sub-s. (1), would be good grounds of appeal.

Sub-s. (2) provides that an appeal shall be heard in the first instance by a referee, who shall be one of the panel of referees selected under the provisions of sect. 34; the selection of the referee is to be regulated by the rules referred to in sub-s. (5).

Sub-s. (3) enacts that the referee is to determine any matter referred to him; to prevent this hearing from savouring of an action at law, or even an arbitration, it is enacted that the referee is to decide "in consultation with" the Commissioners and the appellant; the Commissioners and the appellant are, however, entitled to nominate any persons to represent them at the hearing, so that it would be open to either side to have the assistance of the legal profession; it is not so evident that valuers, or indeed any witnesses, could be heard by the referee. Rule 7 (3) in Appendix F. would seem to leave it to the discretion of the referee.

The referee has power to make either side pay the expenses incurred by the other; all reference to legal costs is carefully omitted, but the referee would seem to have power to make such an order as would cover these.

Sub-s. (4) provides for the making of rules of Court enabling any person aggrieved to appeal from the referee's decision. These rules are to include conditions enabling the Court to require the payment of, or the giving of security for, any duty claimed. The person aggrieved includes the Commissioners as well as the appellant, and also any person affected by the decision of the referee.

An appeal lies from the order of the High Court either on the matter decided by the referee or on the question of the payment of, or giving of security for, any duty claimed preliminary to an appeal. The provisions of sub-ss. (2), (3), and (4) of sect. 10 of the Finance Act, 1894, are as follows:—

No appeal shall be allowed from any order, direction, determination or decision of the High Court on any appeal under this section except with the leave of the High Court or Court of Appeal.

Sect. 33.

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## Sect. 33.

The costs of the appeal shall be in the discretion of the Court, and the Court, where it appears to the Court just, may order the Commissioners to pay on any excess of duty repaid by them interest at the rate of three per cent. per annum, for such period as appears to the Court just.

Provided that the High Court, if satisfied that it would impose hardship to require the appellant, as a condition of an appeal, to pay the whole or, as the case may be, any part of the duty claimed by the Commissioners or of such portion of it as is then payable by him, may allow an appeal to be brought on payment of no duty, or of such part only of the duty as to the Court seems reasonable, and on security to the satisfaction of the Court being given for the duty, or so much of the duty as is not so paid, but in such case the Court may order interest at the rate of three per cent. per annum, to be paid on the unpaid duty so far as it becomes payable under the decision of the Court.

When the total or site value, as alleged by the Commissioners, does not exceed £500, the appeal may be to the County Court for the county or place in which the appellant resides or the land is situate; the hearing in the County Court is then deemed to be the hearing in the High Court, and any appeal from the decision of the County Court shall be direct to the Court of Appeal. Rules of Court will have to be made to regulate such appeals.

Sub-s. (5) provides that rules are to be made with reference to the appeal to the referee, his selection, the form of his decision, and any other matter for which it appears necessary or expedient to provide. The rules are to be made by the Reference Committee, subject to the approval of the Treasury; the Reference Committees for England, Scotland, and Ireland are then respectively defined.

The Rules have now been made and will be found in Appendix F., page 175.

*Appointment of Referees to hear Appeals.*

Appointment  
of referees  
to hear  
appeals.

34.—(1) Such number of persons, being persons who have been admitted Fellows of the Surveyors' Institution, or other persons having experience in the valuation of land as may be appointed for England, Scotland, and Ireland, respectively, by the Reference Committee, shall form a panel of persons to act as referees for the purposes of this Part of this Act in England, Scotland, and Ireland,



respectively, and persons having experience in the valuation of minerals shall be included in each panel. Sect. 34,  
sub-s. (1).

(2) There shall be paid out of moneys provided by Parliament to every referee appointed under this section such fees or remuneration as the Treasury direct.

This section empowers the three Reference Committees, defined in the last section, to appoint a panel of referees for each country respectively. The referees are to be paid by the Treasury.

## CHAPTER VIII.

### EXEMPTIONS IN SPECIAL CASES.

#### *Exemption for Land held by Rating Authorities.*

Exemption  
for land held  
by rating  
authorities.

35.—(1) No duty under this Part of this Act shall be charged in respect of any land or interest in land held by or on behalf of a rating authority, or any statutory combination representative of two or more local or rating authorities, and any increment value duty in respect of any such land which would have been collected from the authority (whether on the occasion of the transfer on sale of the land, or any interest in the land, or the grant of a lease of the land, or on the periodical occasions provided in this Act) shall, for the purposes of the provisions of this Act as to the collection of increment value duty, be deemed to have been paid.

(2) For the purposes of this section the expression “rating authority” means any body who have power to raise a rate or administer money raised by a rate; and the expression “rate” means a rate the proceeds of which are applicable to public local purposes, and which is leviable on the basis of an assessment in respect of the yearly value of property, and includes any sum which, though obtained in the first instance by a precept, certificate, or other instrument, requiring payment from some authority or officer, is or can be ultimately raised out of a rate as before defined.

Sub-s. (1) enacts that no duty under Part 1 of the Act, that is to say, no increment value duty, reversion duty, undeveloped land duty, or mineral rights duty, shall be charged in respect of any land or interest in land held by a rating

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authority, or any statutory combination representative of two or more local or rating authorities. Such land is not, however, exempted from the operation of sects. 26 and 27, which provide for the valuation of all land in the United Kingdom and the ascertainment of the original site value. The sub-section provides that on a sale of the land, or any interest in the land, or the grant of a lease of the land, or on the periodical occasions referred to in sect. 6, sub-s. (1), the increment value duty which would then have been collected, if not so held by a rating authority, is to be deemed to have been paid. This is for the benefit of the transferee or lessee, who would otherwise not get the benefit of sect. 3, sub-s. (1), which makes the Commissioners give credit for duty paid on previous occasions. It will therefore be necessary to make the same valuations of the land, including the periodical occasions for increment value duty, as if the land were held by an ordinary body corporate; if not, it would be impossible to assess the amount of duty deemed to have been paid.

It would appear that no reversion duty is payable upon the determination of a lease to a rating authority: the words "held by" seem to mean held up to the time of the transfer on sale of the land or any interest in the land, or the grant of a lease of the land; when the lease determines, the interest in the land has been held by the rating authority up to the time of such determination, and it is, therefore, submitted that no reversion duty is payable by the owner. Conversely, if a rating authority grants a lease of land, the authority will be liable for the reversion duty payable on the determination of the lease. This result does not seem to be in accordance with the spirit of the section, but it is submitted that it is its legal interpretation.

It should be noted that increment value duty will be payable on the sale of land, or an interest in land, or the grant of a lease of land, to a rating authority.

It should also be noted that all land, wherever situated, held by such an authority, is exempted. It is quite common for such an authority, say a water board, to hold land outside its own rating district; a strong effort was made in the debate in the Commons to except such land from the relief given by this section, but it was not amended in this behalf.

Sub-s. (2) defines a rating authority. The definition appears to be comprehensive, and of easy application.

## Sect. 36.

*Deduction from Increment Value of Sum paid to Rating Authority in respect of Increase in Value.*

Deduction from increment value of sum paid to rating authority in respect of increase in value.

**36.** Where in pursuance of any public general or local Act any capital sum or any instalment of a capital sum has been paid to any rating authority in respect of the increased or enhanced value of any land due to any improvements made or other action taken by the authority, the amount of that capital sum or instalment shall be deducted from any increment value of the land for the purposes of the collection of increment value duty and from the site value of the land for the purposes of the collection of undeveloped land duty, and from the value of the benefit accruing to the lessor for the purposes of reversion duty, and in the case of increment value duty the duty on the amount deducted shall be deemed to have been paid.

This section is to afford relief in the case of betterment, namely, increased or enhanced value due to the efforts of any rating authority which itself exacts payment from the owner in respect of such increase under such Acts as the Housing, Town Planning, etc., Act, 1909. The increment value as determined by sect. 2, and the site value of the land for undeveloped land duty as determined by sect. 28, and the benefit accruing to the lessor for purposes of reversion duty as determined by sect. 13, would all include such increased value. It is therefore provided that such increment value, site value, and benefit are to be reduced by any capital sum, or any instalment of a capital sum, actually paid to such rating authority. The reduction will, of course, increase on successive occasions for the ascertainment of such values or benefit, according to the number of instalments paid. If the payment to the rating authority is made by a perpetual annual charge, a most unlikely contingency, relief could be obtained under sect. 25, sub-s. (3), as such payment would be a fixed charge as defined by the eighth paragraph of sect. 41, and a deduction in respect of such charge would be made from the total value in arriving at the site value.

With regard to reversion duty, a lessor who is liable for

the capital sum could, it is submitted, claim a greater measure of relief under sect. 13, sub-s. (2). He is entitled under that section to a deduction of any part of the total value attributable to expenditure of a capital nature incurred during the term of the lease; under this heading would come any sum so due to the rating authority, whether paid or not; expenditure is incurred when a liability for payment arises, even though it is not discharged. The case is, however, not likely to occur often.

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*Special Provision for Land held for Charitable Purposes.*

37.—(1) No reversion duty or undeveloped land duty under this Part of this Act shall be charged in respect of land or any interest in land held by or on behalf of any governing body constituted for charitable purposes while the land is occupied and used by such a body for the purposes of that body, and increment value duty shall not be collected on any periodical occasion in respect of the fee simple of or any interest in any land held for the purposes of such a body, whether it is occupied or used by that body or not, without prejudice, however, to the collection of the duty on any other occasion.

Special provision for land held for charitable purposes, etc.

The expression “governing body constituted for charitable purposes” includes any person or body of persons who have the right of holding, or any power of government of, or management over, any property appropriated for charitable purposes (including property appropriated for the purpose of any of the naval or military forces of the Crown), and includes any corporation sole and all universities, colleges, schools, and other institutions for the promotion of literature, science, or art.

(2) This section shall apply to the fee simple of, or any interest in, any land held by a registered society or by a company within the meaning of the Companies (Consolidation) Act, 1908, or any body of persons incorporated by special Act, if that company or body are by their memorandum or Act precluded from dividing any profit amongst their members, as if the purposes of the

8 Edw. 7,  
c. 69.

Sect. 37, society, company, or body of persons were charitable  
sub-s. (2). purposes.

In this provision the expression "registered society" means any society or body of persons who are registered, or whose rules are certified or registered, by a registrar of friendly societies in pursuance of any Act of Parliament, and who by their rules make provision for the benefits set out in section eight, sub-section one, of the Friendly Societies Act, 1896, and where the contract between the society and the member is of a permanent character.

Sub-s. (1) enacts that no reversion duty or undeveloped land duty shall be charged on land or any interest in land held by any governing body constituted for charitable purposes, while the land is occupied and used by such a body for its purposes. The relief from reversion duty is not easily construed; the natural meaning of "held" is held immediately before the determination of the lease, the determination of which gives rise to the claim for duty; the relief in such case would be to the lessor, and not to the charitable body. If, on the other hand, "held" means held immediately after the determination of a lease granted by the charitable body, and the further condition as to the occupation and use of the land is fulfilled, the charitable body would get relief from the reversion duty; but this is an unnatural construction, and is opposed to the spirit of the provision as to increment value duty, dealt with below. The sub-section should be compared with the previous section.

The sub-section also relieves land so held from undeveloped land duty, while it is occupied and used by such a body for its purposes, but this relief is not extended to land belonging to the charitable body, but not occupied by them.

The sub-section also enacts that increment value duty shall not be collected on any periodical occasion in respect of the fee simple of, or any interest in land, held for the purposes of such a body, whether it is occupied or used by that body or not. No duty will, therefore, be payable under sect. 6, of which the fifth sub-section provides that the return under sect. 6, sub-s. (2), need not be made in such cases. It must be noted, however, that increment value duty will be payable by any such body on the transfer on sale of land, or an interest

in land, held by them, and on the grant of a lease of land held by them; also, that in such case the increment value duty not collected on any previous periodical occasion is not deemed to have been paid, so that sect. 3, sub-s. (1), will not give the usual relief.

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There is nothing in the section to relieve the land from the valuations prescribed by sects. 25 and 26, or from the quinquennial valuation for undeveloped land duty under sect. 28, though, as we have seen, no duty will be payable on those occasions, if the land is occupied and used by the charitable body.

The second paragraph of the sub-section does not define "governing body constituted for charitable purposes," but states that it includes any corporation sole and all universities, colleges, schools, and other institutions for the promotion of literature, science, or art. It also includes institutions and societies which are charitable in the ordinary, as opposed to the legal, meaning of the word. It was very clearly laid down in the debates in the Commons that it did not include religious bodies, though these are charitable in the legal sense of the word.

Sub-s. (2) enacts that the section shall apply to the fee simple of, or any interest in land, held by (a) a registered society, or (b) a company within the meaning of the Companies (Consolidation) Act, 1908, if precluded by its memorandum of association from dividing any profit among its members, or (c) any body of persons incorporated by special Act, if precluded by such Act from dividing any profit among its members.

These companies and incorporated bodies do not seem to present much difficulty.

A "registered society" is defined as meaning any society who are registered, or whose rules are certified or registered, by a registrar of friendly societies. Under sect. 8 of the Friendly Societies Act, 1896, friendly societies as therein defined, cattle insurance societies, benevolent societies, working men's clubs, and specially authorised societies as defined in the Act, may be registered. Various other societies may be registered under other Acts. Such society must by their rules make provision for the benefits set out in sect. 8 (1) of the Friendly Societies Act, 1896.

**Sect. 37.**

Sect. 8 (1) of the Friendly Societies Act, 1896, is as follows :—

Societies (in this Act called friendly societies) for the purpose of providing by voluntary subscriptions of the members thereof, with or without the aid of donations, for—

(a) The relief or maintenance of the members, their husbands, wives, children, fathers, mothers, brothers, or sisters, nephews or nieces, or wards being orphans, during sickness or other infirmity, whether bodily or mental, in old age (which shall mean any age after fifty) or in widowhood, or for the relief or maintenance of the orphan children of members during minority; or

(b) Insuring money to be paid on the birth of a member's child, or on the death of a member, or for the funeral expenses of the husband, wife, or child of a member, or of the widow of a deceased member, or, as respects persons of the Jewish persuasion, for the payment of a sum of money during the period of confined mourning; or

(c) The relief or maintenance of the members when on travel in search of employment, or when in distressed circumstances, or in case of shipwreck, or loss or damage of or to boats or nets; or

(d) The endowment of members or nominees of members at any age; or

(e) The insurance against fire, to any amount not exceeding fifteen pounds, of the tools or implements of the trade or calling of the members. Provided that a friendly society which contracts with any person for the insurance of an annuity exceeding fifty pounds per annum, or of a gross sum exceeding two hundred pounds, shall not be registered under this Act.

By s. 1 of the Friendly Societies Act, 1908, to the description of societies which may be registered as friendly societies, contained in sub-s. (1) of s. 8 of the Friendly Societies Act, 1896, the following paragraph shall be added after paragraph (e) :—

“or

(f) Guaranteeing the performance of their duties by officers and servants of the society or any branch thereof.”

*Special Provision for Statutory Companies.*

Special provision for statutory companies.

**38.**—(1) Neither increment value duty, reversion duty, nor undeveloped land duty shall be charged in respect of any land whilst it is held by a statutory company for the purposes of their undertaking and cannot be appropriated by the company except to those purposes; but nothing in this provision shall prevent the collection of increment value duty when any such land is sold or ceases to be so held.



This provision shall not be construed so as to exclude from the benefit thereof land held by a statutory company which is intended to be ultimately appropriated for the purpose of works forming or to form part of the company's undertaking, but, pending the carrying out of those works, is used for other purposes. Sect. 38,  
sub-s. (1).

(2) The Commissioners shall not require a statutory company to make any returns with respect to any such land for the purpose of the provisions of this Part of this Act as to valuation other than as to the actual cost to the company of the land, and that cost shall, for the purposes of this Part of this Act, be substituted for the original site value of the land.

(3) For the purposes of the Lands Clauses Acts, as incorporated with any special Act, the amount (if any) payable by the transferor as increment value duty shall not be treated as part of the costs or expenses of a conveyance of land, and shall not be taken into account in assessing the compensation to be paid to the transferor.

(4) For the purposes of this section the expression "statutory company" means any railway company, canal company, dock company, water company, or other company who are for the time being authorised under any special Act to construct, work, or carry on any railway, canal, dock, water, or other public undertaking, and includes any person or body of persons so authorised; and the expression "special Act" includes any Provisional Order or order having the force of an Act of Parliament.

Sub-s. (1) enacts that increment value duty, reversion duty, and undeveloped land duty shall not be charged in respect of any land held by a statutory company for the purposes of their undertaking, and which cannot be appropriated by the company except to those purposes, but that increment duty shall be collected when any such land is sold or ceases to be so held. A statutory company will therefore not pay increment value duty on the periodical occasions as prescribed by sect. 2, sub-s. 2 (a), but will have to pay the duty on the sale or grant of a lease of land. It should be noted that the duty which would have been paid is not

**Sect. 38.** deemed to have been paid, so that on a sale or grant of a lease of land, as in the last section, or on the land ceasing to be held for such purposes, sect. 3, sub-s. (1), will not give the usual relief. As to the relief from reversion duty, see the remarks on the relief from this duty granted by the last section. It should be noted, however, that the proviso extends the relief to land which is intended to be ultimately appropriated for the purposes of the company's undertaking, but meanwhile is used for other purposes. This is not restricted to use by the company, so if such a company makes a lease of land, which land they intend to ultimately appropriate to their undertaking, no increment value duty will be payable upon the grant of the lease, and no reversion duty upon its determination.

Sub-s. (2) recognises the fact that such a company has generally to pay much more for its land than its market value, and accordingly provides that it need not make any returns for the purpose of valuation, other than the actual cost to the company of the land, and that cost is to be the original site value of the land. Such a company, therefore, need not, as to the land exempted by sub-s. (1), furnish the account to be delivered under sect. 6, sub-s. (2), for the purpose of assessing increment value duty on the periodical occasions, the account to be delivered under sect. 15, sub-s. (2), for the purpose of assessing reversion duty, the return under sect. 26, sub-s. (2), for ascertaining original site value, save the cost of the land, and seemingly escapes the quinquennial valuation under sect. 28 for the purpose of assessing undeveloped land duty.

Sub-s. (3) provides that where land is sold to such a company, the amount of increment value duty payable by the transferor is not to be taken into account in assessing the compensation payable to him, that is to say, the company is not to be mulcted in such duty, but it must come out of the pocket of the vendor.

Sub-s. (4) defines a statutory company; the definition would probably include a telephone company, electric light or power company, and a gas company.

## CHAPTER IX.

### MISCELLANEOUS PROVISIONS AND DEFINITIONS.

#### *Power to charge Duty on Land in Certain Cases.*

39.—(1) Where the fee simple of any land, or any interest in land, in respect of which increment value duty or reversion duty is charged, is settled land within the meaning of the Settled Land Act, 1882, or is vested in a trustee, and the tenant for life, or persons having the powers of a tenant for life, or the trustee, is the person who is liable to pay any sums on account of either of these duties, he shall be entitled to charge by deed upon the land or interest in land any amount paid by him, or which he may then be or may thereafter become liable to pay, in respect of either of these duties, and the amount of any expenditure which he may have reasonably incurred in connection with the valuation, and the benefit of any such charge, may be transferred in like manner as a mortgage.

Sect. 39, sub-s. (1).  
Power to charge duty on land in certain cases.  
45 & 46 Vict. c. 38.

(2) In the case of settled land a deed executed for the purposes of this section shall not take effect until notice thereof has been given to the trustees of the settlement for the purposes of the Settled Land Act, 1882.

(3) Sections fifty-nine, sixty, and sixty-two of the Settled Land Act, 1882 (which relate to the exercise of powers on behalf of infants and lunatics), shall apply to the exercise of the power under this section in the same manner as they apply to the exercise of the powers of a tenant for life under that Act.

(4) Where the fee simple of any land, or any interest in land in respect of which increment value duty or reversion duty is charged, is vested in a mortgagee who is

**Sect. 39.** liable to pay any sum on account of either of those duties,  
**sub-s. (4).** he shall be entitled to add to his security the sum for  
 — which he is so liable, including any costs or expenses properly incurred by him in respect of the payment of the duty.

(5) In Scotland, where any person, having a limited interest in the land or interest in land in respect of which any duty under this Part of this Act is charged, is the person who is liable to pay the sums on account of the duty, he shall be entitled to charge such land or such interest in land by means of a bond and disposition or bond and assignation in security in his own favour which he is hereby authorised to grant.

Sub-s. (1) enacts that where land or an interest in land is settled land within the meaning of the Settled Land Act, 1882, and the tenant for life or trustee is liable to pay increment value duty or reversion duty, he is entitled to charge the land with any duty paid or for which he may be liable, and the expense of any valuation, and that such charge may be transferred like a mortgage.

The transferor or lessor is liable for the increment value duty on the sale of land or any interest in land, and on the grant of a lease of land, under sect. 4, sub-s. (1). According as the tenant for life or trustee is the transferor or lessor, one or the other will be liable for the increment value duty, which in the case of a lease may be payable by instalments under sect. 4, sub-s. (5).

The tenant for life or trustee will also be liable for the increment value duty payable on land passing on death, if he is liable for the estate duty on such land under the Finance Act, 1894.

The lessor is liable for the reversion duty under sect. 15, sub-s. (1), and, as before, the tenant for life or trustee will be liable for it.

It should be noted that no power is given to charge the land with any payment of undeveloped land duty or mineral rights duty, which are annual duties, and not fairly chargeable against the reversioner, but a payment of increment value duty on minerals could, it appears, be charged.

This section is analogous to the section of the Finance

Act, 1894, which enables estate duty to be charged on property, but there is a very serious difference between the two, which appears to have been overlooked. The estate duty is assessed in one sum, namely, on the principal value of the entire property, and can be charged on the entire property; increment value duty is assessed separately on as many parcels of land as are in separate occupation, and possibly more. This sub-section would appear to enable the tenant for life or trustee to charge merely the particular parcel of land with the increment value duty or reversion duty payable in respect of it, and not the whole of the settled land of which it forms part; if this view is correct, a deed of charge which carries out the object of the section will, in an estate of even moderate size, be of enormous dimensions.

Sect. 39.  
—

Sub-s. (2) provides for notice being given to the trustees of the settlement for the purposes of the Settled Land Acts; the tenant for life must send notice of his intention to charge the land by registered letter to each trustee in the United Kingdom, and to their Solicitor, one month before charging the land, and at the time of giving notice, there must be at least two trustees, unless a contrary intention is expressed in the settlement.

Sub-s. (3) incorporates the three following sections of the Settled Land Act, 1882.

Sect. 59.—Where a person, who is in his own right seised of or entitled in possession to land, is an infant, then for purposes of this Act the land is settled land, and the infant shall be deemed tenant for life thereof.

Sect. 60.—Where a tenant for life, or a person having the powers of a tenant for life under this Act, is an infant, or an infant would if he were of full age, be a tenant for life, or have the powers of a tenant for life under this Act, the powers of a tenant for life under this Act may be exercised on his behalf by the trustees of the settlement, and if there are none, then by such person and in such manner as the Court, on the application of a testamentary guardian or next friend of the infant, either generally or in a particular instance, orders.

Sect. 62.—Where a tenant for life, or a person having the powers of a tenant for life under this Act, is a lunatic, so found by inquisition, the committee of his estate may, in his name and on his behalf, under an order of the Lord Chancellor, or other person intrusted by virtue of the Queen's Sign Manual with the care and commitment of the custody of the persons and estates of lunatics, exercise the powers of

**Sect. 39.** a tenant for life under this Act; and the order may be made on the petition of any person interested in the settled land, or of the committee of the estate.

Sub-s. (4) enables a mortgagee who is liable for increment value duty or reversion duty to add to his security any sum for which he is so liable, including any costs incurred in respect of the payment of the duty. These last words differ from those in sub-s. (1), which enable a tenant for life to charge the land with the expenditure incurred in any valuation, but it is difficult to see what costs they could cover other than the expense of such valuation.

When a mortgagee has foreclosed he is really no longer the mortgagee but the owner, and as such will be liable for any of the duties imposed by Part I. of the Act, when any occasion arises for their assessment after foreclosure. Sect. 14, sub-s. (5), affords a certain protection to the mortgagee in the case of reversion duty becoming payable after foreclosure; in all other cases he will be liable for the whole amount of the duty as owner. We will now consider the case of a mortgagee who has not foreclosed.

The definition of transferor and lessor in the twelfth paragraph of sect. 41, protects a mortgagee who joins in the execution of the instrument by which the transfer or lease is effected, or agreed to be effected, for the purpose only of conveying any estate vested in him as mortgagee, or of acknowledging the receipt of the consideration money, or of giving consent. If a mortgagee, however, goes into possession or exercises his power of sale or leasing, he will be liable for any increment value duty payable upon such transfer on sale or lease under sect. 1 (a), and he will also be liable for the increment value duty payable upon the death of the mortgagor under sect. 1 (6), and he will also be liable for the increment value duty payable on the periodical occasions, if the mortgagor is a body corporate or unincorporate, under sect. 6, sub-s. (1).

If he has gone into possession, and a lease determines, he is the lessor under the definition in the eleventh paragraph of sect. 41, and is liable for the reversion duty.

By this sub-section the mortgagee can add to his security the duty for which he is liable, and also any costs or expenses properly incurred by him in paying the duty.

*Application of Part I. to Copyholds.*

Sect. 40.

40. The following provisions shall have effect with respect to the application of this Part of the Act to copyholds, including customary freeholds :—

Application  
of Part I. to  
copyholders.

- (1) In the case of copyholds of inheritance, and copyholds held for a life or lives or for years where the tenant has a right of renewal, and customary freeholds—

(a) The total and site values of the land shall be ascertained as if the land were freehold land, subject to a deduction of such an amount as is proved to the Commissioners to be equal to the amount which it would cost to enfranchise the land ;

(b) References to the fee simple of land shall be treated as references to the whole copyhold or customary interest or estate ;

(c) In the definition of “owner,” a reference to the person entitled to the rents and profits of the land as tenant by copy of court roll or customary tenure shall be substituted for the reference to the person entitled to the rents and profits of the land in virtue of an estate of freehold ;

- (2) In the case of copyhold land held for a life or lives, or for years where the tenant has not a right of renewal, this Part of this Act shall have effect as if the land were freehold land and the copyhold interest were a leasehold interest.

*Definitions.*

41. In this Part of this Act, unless the context otherwise requires,—

Definitions.

The expression “land” does not include any incorporeal hereditament issuing or granted out of the land ;

Sect. 41. It should be noted that land includes minerals, but minerals are under sect. 23 (2), to be treated as a separate parcel of land. Land does not include a fee farm rent, so that the owner of a fee farm rent will not be liable for increment value duty upon the transfer on sale of such a rent.

The expression "rentcharge" means tithe or tithe rentcharge, or other periodical payment or rendering in lieu of or in the nature of tithe, or any fee farm rent, rent seck, quit rent, chief rent, rent of assize, or any other perpetual rent or annuity granted out of land;

All these charges are to be taken into account in arriving at the total value of land under sect. 25 (3); if any of them have been redeemed, the expenditure on such redemption is to be deducted from the total value to arrive at the assessable site value.

41 & 45 Vict.  
c. 41.

The expression "rent" has the same meaning as in the Conveyancing and Law of Property Act, 1881, and does not include a rentcharge;

Under that Act, sect. 2 (IX.), rent includes yearly or other rent, toll, duty, royalty or other reservation, by the acre, the ton, or otherwise.

The expression "lease" includes an under-lease and an agreement for a lease or under-lease, but does not include a term of years created solely for the purpose of securing money until the term becomes vested in some person free from any equity of redemption;

A lease is not confined to a lease for a term of fourteen years or more, though an interest in land does not include a leasehold interest under a lease for a term of years not exceeding fourteen. Increment value duty is not payable on the grant of a lease for a term not exceeding fourteen years, sect. 1 (a), and reversion duty is not payable on the determination of a lease for a term not exceeding twenty-one



years, sect. 14, sub-s. (2), a mining lease for any number of years, however small, will be subject to the appropriate duties, sect. 20, sub-s. (2) (a), and sect. 22, sub-s. (3). Sect. 41.  
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The term of a lease shall, where the lease contains an obligation to renew the lease, be deemed to include the period for which the lease may be renewed, and, in the case of a lease for life or lives, shall be deemed to be a number of years equal to the mean expectation of life of the person for whose life the lease is granted, or, in the case of a lease granted for lives, of the youngest of the persons for whose lives the lease is granted, and a lease renewed in pursuance of such an obligation shall not on its renewal be deemed to be determined;

In the case of a lease for lives renewable for ever, which is converted into a fee farm grant under the provisions of the Renewable Leasehold Conversion (Ireland) Act, 1849, such a fee farm grant would seem to be a renewal made in pursuance of an obligation above referred to, and no reversion duty will be payable on the determination of the lease for lives; as the fee farm conversion grant is granted under a contract made before the commencement of this Act, namely, the covenant to renew contained in the original lease for lives, as amended by the above-mentioned Act, no increment value duty will be payable upon its grant.

The expression "interest" in relation to land includes any undivided share in a fee simple in possession and includes a reversion expectant on the determination of a lease, but does not include any other interest in expectancy or an incumbrance as defined by this Act or any fixed charge as defined by this Act or any purely incorporeal hereditament or any leasehold interest under a lease for a term of years not exceeding fourteen years or any tenancy which is, or is deemed to be, subject to statutory conditions under the Land Law (Ireland) Acts;

**Sect. 41.** From the definition of "land" and "interest in land," it will be seen that incorporeal hereditaments are entirely excluded from the operation of the Act.

It is not clear whether an interest includes a leasehold interest for an unexpired residue of less than fourteen years when the term originally granted was more than fourteen years, but as such interest is not expressly excluded, it would appear to be included. Where the interest is for a life or lives, then however short the expectation of such life or youngest life is, such interest is within the scope of the Act.

The exclusion of Irish statutory tenancies has been dealt with in the notes to sect. 1.

The expression "incumbrance" includes a mortgage in fee or for a less estate, and a trust for securing money, and a lien, and a charge of a portion, annuity, or any capital or annual sum, but does not include a fixed charge as defined by this Act ;

It should be noted that incumbrances are not to be regarded when arriving at the gross value of land, sect. 25, sub-s. (1), and therefore also in arriving at the total value, sect. 25, sub-s. (3). Regard is, however, to be had to fixed charges in arriving at the total value, which are not included in incumbrances.

The expression "fixed charge" means any rent-charge as defined by this Act, and any burden or charge (other than rates or taxes) arising by operation of law or imposed by any Act of Parliament, or imposed in pursuance of the exercise of any powers or the performance of any duties under any such Act, otherwise than by a person interested in the land or in consideration of any advance to any person interested in the land ;

The majority of fixed charges are included in rent charges ; a fixed charge would not include a charge upon the land in respect of estate duty by a tenant for life under the Finance Act, 1894, as he is a person interested in the land, and would not include any sums charged upon the land under the provisions of sect. 39, sub-s. (1) and sub-s. (5).

The expression "fee simple" means the fee simple in possession not subject to any lease, but does not include an undivided share in a fee simple in possession ;

Sect. 41.  
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An undivided share in a fee simple in possession is included in an interest in land.

The expression "owner" means the person entitled in possession to the rents and profits of the land in virtue of any estate of freehold, except that where land is let on lease for a term of which more than fifty years are unexpired, the lessee under the lease or if there are two or more such leases the lessee under the last created under-lease shall be deemed to be the owner instead of the person entitled to the rents and profits as aforesaid :

Under sect. 8, sub-s. (4), "owner" for the purposes of that section includes a person who holds land under a lease originally granted for fifty years or more, and the word "owner" is used in the same sense in sect. 18.

The proprietor of minerals is defined by sect. 24.

Under section 27, sub-s. (7), where the lessee is the owner as defined above, that is to say, when his interest is for an existing term of fifty years or more, any person entitled to the fee simple reversion, or to a leasehold reversion exceeding twenty-one years, is also to be deemed the owner for the purposes of that section.

The expressions "lessor" and "lessee" include an under-lessor and under-lessee ; and the expression "lessor" includes the person for the time being entitled to the reversion, whether freehold or leasehold, expectant on the determination of the lease ; and the expression "lessee" includes executors, administrators, and assigns of the lessee.

Under sect. 15, sub-s. (1), reversion duty is to be recoverable from the lessor. The lessor is here defined as the person

Sect. 41. entitled to the land immediately after the determination of the lease in question ; that is to say, the estate of the original lessor will not be liable for the duty, unless he is also the lessor at the time of the determination of the lease. If such lessor is only tenant for life he can, under sect. 39, sub-s. (1), charge the land with any increment value duty or reversion duty payable.

The expressions "transferor" and "lessor" do not include any persons who join in the execution of the instrument by which the transfer or lease is effected, or agreed to be effected, for the purpose only of conveying any estate vested in them as trustees or incumbrancers, or of acknowledging the receipt of the consideration money, or of giving consent, and sections fifty-nine, sixty, and sixty-two of the Settled Land Act, 1882 (which relate to the exercise of powers on behalf of infants and lunatics), shall apply to the exercise of the powers of an owner under this Part of this Act in the same manner as they apply to the exercise of the powers of a tenant for life under that Act.

45 & 46 Vict.  
c. 38.

It would appear that a mortgagee to whom any money is actually paid upon the execution of any such instrument is liable for the duty payable by a transferor or lessor, and must protect himself under the provisions of sect. 39, sub-s. (4). That section should also be referred to with reference to the second half of the definition.

The expression "agriculture" includes the use of land as meadow or pasture land or orchard or osier or woodland, or for market gardens, nursery grounds, or allotments ; and the expression "agricultural land" shall be construed accordingly.

This definition has been considered in the notes to sect. 7.

*Application of Part I. to Scotland.*Sect. 42,  
sub-s. (1).

42. In the application of this Part of this Act to Scotland, unless the context otherwise requires,—

Application  
of Part I. to  
Scotland.

- (1) The expression “land” does not include teinds, titles or offices of honour, or any servitude, superiority, casualty, feu duty, or ground annual, or any incorporeal heritable right;

The expression “rent” includes yearly or other rent, toll, duty, royalty, or other reservation by the acre, the ton, or otherwise; and, for the purpose of section thirty-one of this Act, includes feu duty and ground annual;

The expression “rent charge” includes feu duty and ground annual;

The expression “interest” in relation to land includes the landlord’s right of reversion to the subjects let on the determination of the lease, but does not include teinds, servitudes, superiorities, any interest in expectancy, whether vested or not, heritable securities, bonds of provision, jointures, annuities, or other capital or annual sums, or other debts secured upon heritage, or any sporting right, or any lease thereof;

The expression “owner” means the fiar of the land, except that where land is let on lease for a term of which more than fifty years are unexpired, the tenant under the lease shall be deemed to be the owner, and includes an institute or heir of entail in possession;

The expression “freeholder” includes “fiar,” “life-renter of land settled within the meaning of the Finance Act, 1894,” and “institute or heir of 57 & 58 Vict. entail in possession,” and the expression “free- c. 30. hold” shall be construed accordingly;

The expression “incumbrance” includes any heritable security, or other debt or payment secured upon heritage, and the expression “incumbrancer” shall be construed accordingly;

Sect. 42,  
sub-s. (1).

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“Servitudes” shall be substituted for “easements” and shall be deemed to include public rights;  
 “Local Government Board for Scotland” shall be substituted for “Local Government Board”;  
 The expression “borough or urban district” means a royal, parliamentary or police burgh;  
 A reference to an appeal to quarter sessions shall not apply;

“Court of Session” shall be substituted for “High Court”: Provided that, for the purposes of appeals from the decisions of referees, the judges of the Court of Session named for the purpose of hearing appeals under the Valuation of Lands (Scotland) Acts shall be substituted for the High Court, subject to such regulations as may be prescribed by Act of Sederunt, and the appeal from such judges shall be to the House of Lords, and in sub-sections (2), (3), and (4) of section ten of the Finance Act, 1894, as applied with reference to any such appeal the said judges shall be substituted for the High Court. “Sheriff Court” shall be substituted for “County Court,” and there shall be an appeal from the sheriff court to the said judges, whose decision in such case shall be final.

- (2) Any order of a referee as to expenses shall be enforceable as a recorded decree arbitral.
- (3) Subsection (2) of section two of this Act shall be construed as if after paragraph (d) thereof the following paragraph were added (that is to say):—

(e) where the occasion is the grant of any feu of the land or the creation of any ground annual thereon, the value of the fee simple of the land calculated on the basis of the value of the consideration for such grant or creation, by way of feu duty, ground annual, or otherwise.

Where increment value duty falls to be collected

on a feu contract or feu charter or a contract of ground annual, it shall be paid by the person by whom or on whose behalf the feu is granted or the ground annual is created, and, for the purposes of this Part of this Act, that person shall be deemed to be the transferor or the transferor on sale and the contract or charter to be the instrument, and the expressions "transfer" and "transfer on sale" shall be construed accordingly. The expressions "lessor" and "lessee" include a sub-lessor and sub-lessee and the heirs, executors, administrators, and assigns of a lessor and lessee respectively.

Sect. 42,  
sub-s. (3).

- (4) Where arrangements are made under section four of this Act for dispensing with the presentation of any instrument or particulars thereof, it shall be the duty of the keeper of the general register of sasines, and of the respective keepers of burgh or other local registers, to furnish to the Commissioners particulars of instruments presented for registration or registered in their respective registers as may be prescribed by regulations of the Commissioners, and in such case the provisions of sub-section (3) of section four shall not apply.

*Power to transfer Land in Satisfaction of Estate Duty,  
Settlement Estate Duty, or Succession Duty.*

56.—(1) The Commissioners may, if they think fit, on the application of any person liable to pay estate duty or settlement estate duty or succession duty in respect of any real (including leasehold) property, accept in satisfaction of the whole or any part of such duty such part of the property as may be agreed upon between the Commissioners and that person.

Power to  
transfer land  
in satisfac-  
tion of estate  
duty, settle-  
ment estate  
duty, or suc-  
cession duty.

(2) No stamp duty shall be payable on any conveyance or transfer of land to the Commissioners under this section.

Sect. 56, (3). The Commissioners may hold any property transferred to them under this section and shall deal with it in such manner as Parliament may hereafter determine.

Having regard to sect. 5, the Commissioners would seem to have power to accept part of the property in satisfaction of the whole or any part of the increment value duty payable upon the passing on death of such property.

*Laying of Rules and Regulations before Parliament.*

Laying of  
rules and  
regulations  
before  
Parliament.

93.—(1) All rules and regulations made by the Treasury or by the Commissioners of Inland Revenue or by the Commissioners of Customs and Excise under this Act shall be laid before each House of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next subsequent forty days on which that House has sat next after any such rule or regulation is laid before it, praying that the rule or regulation may be annulled, His Majesty in Council may, if it seems fit, annul the rule or regulation and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

(2) If any rule or regulation is so annulled any duty previously paid which, but for the rule or regulation, would not have been payable, shall be repaid by the Commissioners, without prejudice, however, to the right of the Commissioners to reassess the duty in accordance with any rule or regulation which may be substituted for the annulled rule or regulation.

*Penalty for making False Statement or Representation.*

Penalty for  
making false  
statement or  
representation.

94. If any person for the purpose of obtaining any allowance, reduction, rebate, or repayment in respect of any duty under this Act, either for himself or for any other person, or in any return made with reference to any duty under this Act, knowingly makes any false statement or false representation, he shall be liable on summary



conviction to imprisonment for a term not exceeding six months with hard labour. Sect. 94.  
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*Construction and Short Title.*

96.—(2) Any reference to “the Commissioners” in Part II., Part VI., or Part VII. of this Act shall be construed as a reference to the Commissioners of Customs and Excise, and any reference to “the Commissioners” in any other Part of this Act shall be construed as a reference to the Commissioners of Inland Revenue.

(7) This Act may be cited as the Finance (1909–10) Act, 1910.



## APPENDIX A.

## FINANCE (1909-10) ACT, 1910.

## INCREMENT VALUE DUTY.

REGULATIONS MADE BY THE COMMISSIONERS OF INLAND  
REVENUE UNDER SECTION 4.*Presentation of Instruments.*

(1.) Having regard to the provisions of the Finance (1909-10) Act, 1910, with respect to Increment Value Duty, it is necessary that, on the occasion of any transfer on sale of the fee simple of any land or of any interest in land, in pursuance of any contract made after the commencement of the Act, or on the grant, in pursuance of any contract made after the commencement of the Act, of any lease of any land, for a term exceeding fourteen years, *the transferor or lessor* shall present to the Commissioners of Inland Revenue the instrument by means of which the transfer or the lease is effected or agreed to be effected, or reasonable particulars thereof, for the purpose of the assessment of Increment Value Duty thereon. The land in question is only such as is situate within the United Kingdom. (Where a building is used for the purpose of separate tenements, flats or dwellings, the grant of a lease, or the transfer on sale of any lease, of any such separate tenements, flat, or dwelling, will not be an occasion requiring presentation of the instrument.—Section 11.)

These Regulations do not apply in the case of the grant of a Mining Lease, as to which reference should be made to the special provisions contained in the Act.

(2.) Under arrangements made by the Commissioners the instrument, or the required particulars thereof, may be presented at any of the following Stamp Offices :—

London (Somerset House, Wellington Street Entrance, or  
Telegraph Street, E.C.).

Edinburgh (Waterloo Place).

Dublin (Custom House and Four Courts).

Birmingham, The Office of the Collector of Customs and  
Excise.

Bolton	„	„	„	„
Bradford	„	„	„	„
Brighton	„	„	„	„
Bristol	„	„	„	„
Cardiff	„	„	„	„
Derby	„	„	„	„
Hull	„	„	„	„
Leeds	„	„	„	„
Leicester	„	„	„	„
Liverpool	„	„	„	„
Manchester	„	„	„	„
Newcastle-on-Tyne	„	„	„	„
Nottingham	„	„	„	„
Portsmouth	„	„	„	„
Sheffield	„	„	„	„
Southampton	„	„	„	„
Sunderland	„	„	„	„
Swansea	„	„	„	„
Wakefield	„	„	„	„
Wolverhampton	„	„	„	„
York	„	„	„	„
Glasgow	„	„	„	„
Belfast	„	„	„	„
Cork	„	„	„	„

The forms I.V.D. (A) and I.V.D. (B) referred to in these Regulations may be obtained at any of the above-mentioned offices, at any local Stamp Office, and at or through any Money Order Office authorised to transact Inland Revenue business.

(3.) If the instrument itself be presented the presentation should take place, if possible, after execution *by the transferor or lessor*. The instrument must be accompanied either by a copy, or by an abstract such (but containing the further particulars required) as is presented with an instrument lodged for adjudication under Section 12 of the Stamp Act, 1891. The abstract should set out fully, for purposes of

identification, the description of the property sold or leased, and if the instrument contains or refers to a plan, a copy of such plan should be furnished. A full statement should be made of any easements or reservations affecting the land, of any covenant restricting its use, and of any agreement or obligation to repair, or to pay outgoings. Any covenant or undertaking or liability to discharge any incumbrance, and any covenant or undertaking to erect buildings or to expend any sums upon the property, should be set out in full. If the easement, covenant, &c., is set forth in some other document than the instrument itself, that document should be presented as well.\* The official form I.V.D. (A) of application for an increment value duty stamp, duly filled up and signed, should also be lodged. The official form of abstract I.V.D. (B) can be used if desired.

(4.) The instrument, the abstract, and the form I.V.D. (A), when presented, will be retained by the proper Officer of the Commissioners for examination, a ticket being given, by way of receipt, to the person presenting them.

(5.) Assuming that the various documents or papers so presented are found on examination to contain the particulars necessary for the purpose of enabling the Commissioners to assess the duty, and that, if security as hereafter mentioned (Par. 14) has been required, such security has been given, the instrument will be impressed with one of the stamps (a), (b), (c), mentioned in Section 4 (3) of the Finance (1909-10) Act, 1910, and will be returned on presentation of the ticket after the expiration of the time mentioned therein. These stamps are :—

either (a) a stamp duty denoting that the increment value duty has been assessed by the Commissioners and paid in accordance with the assessment :

or (b) a stamp denoting that all particulars have been delivered to the Commissioners which, in their opinion, are necessary for the purpose of enabling them to assess the duty, and that security has been given for the payment of duty in any case where the Commissioners have required security :

\* See supplemental instructions, page 183.

or (c) a stamp denoting that upon the occasion in question no increment value duty was payable.

(6.) Where an instrument is so stamped it will, notwithstanding any objection relating to Increment Value Duty, be deemed to be *duly stamped* so far as respects that duty. But unless so stamped the instrument cannot, except in criminal proceedings, be given in evidence, or be made available for any purpose whatever.

(7.) The Act (Sec. 4 (7)) provides that where any agreement for a transfer, or agreement for a lease, is stamped with one of the special stamps provided, it will not be *necessary* to stamp in a similar manner any conveyance, assignment, or lease made subsequently to and in conformity with the agreement. But, if desired, a corresponding stamp will be impressed on the conveyance, assignment, or lease, on presentation of both instruments at the selected Office. Similarly a duplicate of any instrument which has been stamped in accordance with the above section will be impressed with a corresponding stamp on both documents being produced at the Office for the purpose.

If, however, an agreement for a transfer is intended to be followed shortly by an actual conveyance, the Commissioners will not require the agreement, or particulars thereof, to be presented under these Regulations, but will accept the presentation in due course of the actual conveyance or particulars thereof, as a compliance with the provisions of the Act. But an agreement for a lease, or particulars thereof, should be presented without waiting for the actual lease.

(8.) The fact that an instrument has been presented under these regulations, and stamped with the appropriate stamp as regards Increment Value Duty, will not in any way affect the liability of the instrument to the ordinary Stamp Duty imposed by the Stamp Act, 1891, or any amending Act. It will be necessary therefore that the instrument, if not drawn on material duly stamped, be presented within thirty days of execution, to be impressed with the proper ordinary Stamp Duty. (Stamp Act, 1891, Section 15.) Should, however, the transferor or lessor desire to have this duty impressed at the same time as the stamp for Increment Value Duty, so as to avoid the necessity for a second presentation of

the instrument, he should pay the amount of the duty when presenting the instrument, abstract, &c., at the Stamp Office selected.

(9.) In the case of instruments lodged at the Head Office in London, Edinburgh, or Dublin, for adjudication under Section 12 of the Stamp Act, 1891, the application for an Increment Value Duty Stamp may be made at the same time, the application form I.V.D. (A) being accompanied by a separate copy or abstract of the instrument, any abstract to contain a full statement as regards easements, covenants, &c. The Increment Value Duty Stamp will then be impressed when the instrument is stamped with the adjudication stamp.

(10.) Notwithstanding the exemptions from Increment Value Duty contained in Section 7 (Agricultural land), Section 8 (Small houses and properties in owner's occupation), and Section 35 (Land held by Rating Authorities), it will be necessary to present to the Commissioners any conveyance on sale, or lease for a term exceeding 14 years, of land of the description mentioned in those Sections, as the instrument will not be duly stamped unless it bears one of the special Increment Value Duty stamps mentioned in paragraph 5.

#### *Presentation of Particulars.*

(11.) If the instrument itself be not presented by the transferor or lessor for the purpose of the assessment of Increment Value Duty thereon, *reasonable particulars thereof*, in the form of the various documents mentioned in paragraph 3, must be furnished by him. Such particulars can be lodged at any of the Offices mentioned in paragraph 2, and a receipt will be given therefor. The transferor or lessor should at the same time lodge the form I.V.D. (A) duly filled up.

(12.) The presentation of such particulars, in lieu of the instrument itself, will free the transferor or lessor from liability to the fine imposed by Sect. 4 (2) of the Finance (1909-10) Act, 1910. But the instrument will not be "duly stamped" until it bears, in addition to the ordinary Stamp Duty to which it is liable, one of the special stamps relating to Increment Value Duty mentioned in para. 5. Provided, however, the necessary particulars, as above, have been

furnished by the transferor or lessor, the appropriate stamp will be impressed at any future date, if the instrument and the receipt for the particulars are lodged for the requisite length of time at the *Head Office* for England, Scotland, or Ireland, as the case may be.

*Presentation at other Offices.*

(13.) Where it is not possible or convenient to present the instrument or the required particulars at one of the stamp offices mentioned in par. 2 it will be open to the transferor or lessor to lodge the various documents (including form A) at the local Stamp Office, or at any Money Order Office authorised to transact Inland Revenue business, with a request that they may be forwarded to the Head Office, in the same way as documents requiring to be stamped with the ordinary Stamp Duties may now be lodged. In such cases the examination of the documents will be made at the Head Office only, where any Increment Value Duty will be assessed, and in due course the conveyance or lease or agreement, stamped as regards such duty, will be returned to the Stamp or Post Office for delivery to the transferor or lessor on his personal application for it.

*Payment of Increment Value Duty.*

(14.) If on the presentation of an instrument or of particulars thereof, the Commissioners have reason to consider that the occasion is one on which a claim to Increment Value Duty has arisen, they may require security for the payment of duty, and in such a case the stamp referred to in para. 5 will not be impressed until the required security has been given.

(15.) On an assessment of Increment Value Duty being made by the Commissioners, notice of such assessment will be given in writing to the transferor or lessor at the address furnished by him on form I.V.D. (A), and payment will be required in accordance with the terms of such notice.

(16.) In the case of any lease or transfer on sale where the consideration is in the form of a periodical payment, the Commissioners may, if they think fit, allow payment of the



Increment Value Duty assessed to be made by instalments in accordance with the following regulations :—

(I.) Where the consideration consists wholly of a periodical payment,

The duty shall be payable by five equal annual instalments, and the first instalment shall fall due one year after the date of the grant of the lease or the transfer of the interest, and the subsequent instalments on the same date in each successive year.

(II.) Where the consideration consists partly of a lump sum payment and partly of a periodical payment,

(a.) There shall become due and payable at the date of the transfer or grant of the lease an amount bearing to the whole duty to be collected the same proportion as the lump sum bears to the total present value of the consideration calculated on the 4 per cent. tables.

(b.) The balance shall be payable by instalments of the same amounts and at the same times as if the periodical payment constituted the whole of the consideration, and the balance were the whole of the increment value duty to be collected.

(III.) In any case in which the person liable to the payment of any Increment Value Duty may and does elect to pay such duty by instalments, he shall furnish security to the satisfaction of the Commissioners for the payment of the whole amount of the duty payable.

(IV.) If any person, on being required by the Commissioners to furnish such security, fails to do so within two months he shall forfeit his right to pay the duty by instalments, and the whole of the duty shall be deemed to be due on the expiration of two months from the date on which notice was given by the Commissioners of their requirement.

(V.) If any instalment remains unpaid for a period of thirty days after it falls due, or if the person liable to the payment dies or becomes bankrupt, the whole balance of the duty unpaid shall forthwith become due and payable.

(VI.) For the purposes of these rules the term "interest in land" shall be deemed to include the "fee simple of the land."

(VII.) Where the duty due on the grant of a lease is payable by instalments, and the lease is determined before all such instalments have fallen due, the instalments which have not fallen due will be remitted, and in that case the amount of duty which, under Section 4 of the Finance (1909-10) Act, 1910, is deemed to have been paid, will be reduced by the amount of the instalments so remitted.

(17.) In any case where Increment Duty shall have been paid under the provisions of Section 4 of the Finance (1909-10) Act, 1910, but the transaction in respect of which the duty shall have been paid was subsequently not carried into execution, the duty will be returned to the transferor or lessor on his making written application to the Commissioners, the application being supported by a statutory declaration setting forth the circumstances under which the repayment is claimed. The application must be made within two years after the payment of the duty. In any case in which arrangements have been made for payment by instalments, the two years will run from the date on which the last instalment was paid.

#### *Correspondence.*

(18.) Should occasion arise for correspondence in connection with the presentation of an instrument or the delivery of particulars, the letter should be addressed to the Secretary, Inland Revenue, Somerset House, London, W.C.; or to the Comptroller of Stamps and Taxes, Edinburgh, or to the Comptroller of Stamps and Income Tax, Dublin, as the case may be, the envelope being marked in the left-hand corner "Increment Value Duty."

#### **SCOTLAND.**

(19.) In Scotland, paragraphs 1 to 15 of the above Regulations shall not apply to instruments presented for registration in the General Register of Sasines or in any Burgh or other local register, and in lieu thereof the following regulations shall apply:—

- (i.) *Where an instrument\* is presented for registration in the General Register of Sasines or in the Burgh or other local register it shall not be necessary for the transferor or lessor or other accountable party to present such instrument to the Commissioners or furnish them with "reasonable particulars" thereof.*
- (ii.) Nothing in these Regulations shall affect the liability of the instrument to the ordinary stamp duty imposed by the Stamp Act, 1891, or any amending Act.
- (iii.) Where the Commissioners have reason to consider that the occasion is one on which a claim to Increment Value Duty has arisen, they may require security for the payment of the duty.
- (iv.) On an assessment of Increment Value Duty being made by the Commissioners, notice of such assessment will be given in writing to the transferor or lessor and payment will be required in accordance with the terms of such notice.

### IRELAND.

(20.) In view of the special provisions of Section 4 (5) of the Finance (1909-10) Act, 1910, and of the arrangements and Regulations made thereunder, conveyances on sale of lands *to which the Land Purchase (Ireland) Acts apply* will, on presentation to the Registrar of Titles in the ordinary course, and subject to the provisions contained in paragraph 14 of these Regulations, be impressed with the appropriate stamp denoting that the necessary particulars have been delivered to the Commissioners.

With the above exception, these Regulations will apply in Ireland to all conveyances on sale and leases exceeding 14 years.

\* Observe that (a) "Instrument" means any instrument executed on the occasion of a transfer on sale of land or interest in land or the grant of any lease for a term exceeding 14 years or any feu of land or the creation of any ground annual; and that (b) the expression "transferor" includes the person by whom or on whose behalf a feu is granted or a ground annual created (*see* Section 42 (3)).

## APPENDIX B.

*Form I.V.D. (A)*

FINANCE (1909-10) ACT, 1910.

## INCREMENT VALUE DUTY.

*Statement to be furnished on Application for one of the Stamps mentioned in Sect. 4 of the Finance (1909-10) Act, 1910.*

To be filled in by the Marking Official only.

Name of Stamp Office.	Serial Letter and Number of Case.
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NOTE.—The Instrument itself (if possible, executed by the Transferor or Lessor) and also a Copy or a sufficient Abstract thereof must accompany this Application. If an Abstract be furnished, it should contain a full description of the property. A copy of any plan should be furnished. A full statement should be made of any easements or reservations affecting the land, of any covenant restricting its use, and of any agreement or obligation to repair, or to pay outgoings. Any covenant or undertaking, or liability to discharge any incumbrance, and any covenant or undertaking to erect buildings, or to expend any sums upon the property, should be set out in full. If the easement, covenant, etc., is set forth in some other document than the instrument itself, that document should be presented as well. The official form of abstract I.V.D. (B) can be used if desired.

Date of Application	
Name and Address of Solicitor, Agent, or Applicant, which should also be written on the endorsement of the Abstract or Copy before presentation	
Name and address of Transferor or Lessor	
Description and Date of the Instrument	
Names of Parties to the Instrument	<div style="text-align: right;"> } 1st Part  } 2nd Part  } 3rd Part </div>

## \*DECLARATION.

I (or we) hereby declare that the particulars given in the Copy or Abstract are true and correct to the best of my (or our) knowledge and belief.

(Signature) \_\_\_\_\_

\* To be signed by the Transferor or Lessor or by his Solicitor or Agent.

NOTE.—It is open to the Transferor or Lessor, in lieu of presenting the Instrument itself to be stamped under Sect. 4, to present reasonable particulars thereof. The particulars required will be the same as those necessary if the Instrument itself is presented. Presentation of particulars will relieve the Transferor or Lessor from liability to fine; but the Stamp "Particulars Delivered" will not be given unless and until the Instrument itself, accompanied by the official receipt for the particulars, is presented for the purpose at the HEAD OFFICE in London, Edinburgh or Dublin, as the case may be.

## APPENDIX C.

*Form I.V.D. (B)*
 Serial Letter { \_\_\_\_\_  
 and No. {

FINANCE (1909-10) ACT, 1910.

## INCREMENT VALUE DUTY.

*On the occasion of any transfer on sale of the fee simple of any land or of any interest in land, or on the grant of any lease for a term exceeding fourteen years, the following particulars, as far as they are applicable, are required to be furnished to the Commissioners of Inland Revenue in accordance with the provisions of Sect. 4 of the Finance (1909-10) Act, 1910.*

1. Description of Instrument presented . . . . .	
Date of Instrument . . . . .	

2. Situation of Land {	Parish or Place
County . . .	

3. Names, addresses and descriptions of parties.	
Vendor (or Lessor) . . . . .	
Purchaser (or Lessee) . . . . .	
Sub-Purchaser (if any) . . . . .	

4. Consideration.	
To be set out in detail with full particulars of:—	
(a) Any Capital payment . . . . .	
(b) Any Mortgage or other debt, and state whether to be released or covenanted to be paid . . . . .	
(c) Any periodical payment (rent charges, etc.). See also No. 14) . . . . .	
(d) Any term surrendered . . . . .	
(e) Any land surrendered or exchanged . . . . .	

4. *Consideration* (continued)(f) *Covenants*

- (1) to redeem charges . . .
- (2) to make any outlay on  
or in respect of the  
property whether  
upon buildings or  
otherwise . . .

- (g) Any other consideration in-  
cluding reference to any  
lawsuit or dispute com-  
promised, etc. . . .

5. *Parcels.*

The description should be an exact copy from the deed, and should set forth any dimensions given as well as the "General words" relating to the particular appurtenances. In all cases the description here given should, in conjunction with the plan, if any, be sufficient to enable the situation and boundaries of the land to be identified . . .

(If the space allowed is not sufficient, the description can be given on a separate sheet of paper.)

6. *Plan.*

Where there is a plan a Copy thereof should be furnished . . .

7. *Exceptions and Reservations.*

These should be set out in detail, particularly where minerals, sporting rights, timber, easements, etc., may be reserved . . .

- 8. *Covenants* by the purchaser or lessee to build or improve property, or to form, make, maintain or contribute towards cost of roads, should be recited .

9. *Restrictions.*

Any restrictions whatever which may be considered to affect the market value of the interest created or transferred should be set out in detail, including:—

- (a) Building restrictions . . .
- (b) Building line—position of .

9. *Restrictions* (continued)

- (c) Any restrictions as to user of premises, *e.g.*, a covenant to use for only one trade in the case of business premises, or to use as a private dwelling only in a business neighbourhood, or not to convert into a shop without payment of a fine . . .

10. *Easements, Rights of Common, etc.*

These should be referred to where they exist, and all latent defects should be disclosed . . .

11. *Any other Covenant or Condition* affecting the value of the interest created or transferred . . .

## 12. Names and addresses of Solicitor and Surveyor . . .

*Additional particulars to be furnished on the grant or on an agreement for the grant of any lease for a term exceeding fourteen years, or an assignment thereof.*

13. *Habendum.*

- (a) Date of commencement of term . . .  
 (b) Term granted . . .  
 (c) Any powers of renewal or extension . . .  
 (d) Any powers to determine . . .

14. *Rents.*

All rents reserved should be fully stated, also annuities, dower, existing rent charges, and apportioned rent charges, peppercorn rents, abated rents or penalties reserved . . .

15. *Lessee's or Transferee's Covenants.*

The following Covenants should be recited:—

- (a) To pay outgoing . . .  
 (b) To repair or maintain property . . .  
 (c) To insure—Who pays premiums and for what amount are premises insured or to be insured . . .

16. <i>Lessor's or Transferor's Covenants.</i> Covenants bearing on the following should be recited:— Payment of outgoings . . . Improvement or maintenance of property . . . Insurance — Who pays premiums and for what amount are premises insured or to be insured . . .	
---	--

I hereby certify the correctness of the above statements.

Solicitor to the Transferor or Lessor.

Address \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_ 191 .



## APPENDIX D.

## REVERSION DUTY.

(FINANCE (1909-10) ACT, 1910).

ACCOUNT TO BE RENDERED BY THE LESSOR ON THE  
DETERMINATION OF THE LEASE OF ANY LAND IN  
RESPECT OF WHICH REVERSION DUTY IS PAYABLE.

(1.) Parish or Parishes in which the Land is situated.	
(2.) Precise situation of the Land.	
(3.) Christian name and Surname and full postal address of the person making the return.	
(4.) Term for which the lease was granted.	
(5.) Date of commencement of term.	
(6.) Date of determination of the lease.	
(7.) Amount of yearly rent reserved under the lease.	
(8.)—(a) Whether granted for any sideration in money paid by the Lessee in addition to the rent reserved or (b) Upon any condition as to the lessee laying out money in building, rebuilding or improvements. If so, give particulars.	(a)       (b)

[illegible]

<p>the period for which the lease may be renewed).</p> <p>(c) If dependent on life, the present age of the person on whose life the interest is dependent, and if dependent on more than one life, the present age of the youngest of the persons on whose life it is dependent.</p>	(c)
<p>(15.) Whether any exemption or allowance is claimed under Section 14 of the Finance Act. If so, full particulars must be given.</p>	

SECTIONS OF THE FINANCE (1909-10) ACT, 1910, WHICH  
RELATE TO REVERSION DUTY.

*Reversion Duty.*

13.—(1) On the determination of any lease of land there shall be charged, levied, and paid, subject to the provisions of this Part of this Act, on the value of the benefit accruing to the lessor by reason of the determination of the lease a duty, called reversion duty, at the rate of one pound for every complete ten pounds of that value.

(2) For the purposes of this section the value of the benefit accruing to the lessor shall be deemed to be the amount (if any) by which the total value, (as defined for the purpose of the general provisions of this Part of this Act relating to valuation) of the land at the time the lease determines, subject to the deduction of any part of the total value which is attributable to any works executed or expenditure of a capital nature incurred by the lessor during the term of the lease and of all compensation payable by such lessor at the determination of the lease, exceeds the total value of the land at the time of the original grant of the lease, to be ascertained on the basis of the rent reserved and payments made in consideration of the lease (including, in cases where a nominal

rent only has been reserved, the value of any covenant or undertaking to erect buildings or to expend any sums upon the property), but where the lessor is himself entitled only to a leasehold interest the value of the benefit as so ascertained shall be reduced in proportion to the amount by which the value of his interest is less than the value of the fee simple.

Exemption  
from rever-  
sion duty, and  
allowances.

14.—(1) Where, in the case of a reversion to a lease purchased before the thirtieth day of April nineteen hundred and nine, the lease on which the reversion is expectant determines within forty years of the date of the purchase, no reversion duty shall be charged under this Part of this Act on the determination of the lease. Provided that this exemption shall not apply where the lease is determined within forty years by agreement between the lessor and the lessee, whether express or implied, not contained in the lease itself, unless the lease would, apart from any such agreement, have determined within that period.

(2) No reversion duty shall be charged on the determination of the lease of any land which is at the time of the determination agricultural land, nor on the determination of a lease, the original term of which did not exceed twenty-one years, nor shall reversion duty be charged where the interest of the lessor expectant on the determination of a lease is a leasehold interest which does not exceed that number of years.

(3) Where a lease of any land is determined before the expiration of the term of the lease by agreement between the lessor and the lessee, whether express or implied, and a fresh lease of the land is then granted to the lessee the term of which extends at least twenty-one years beyond the date on which the original lease would have expired, the Commissioners shall make an allowance in respect of the reversion duty payable of two and a half per cent. of the duty for every year of the original term of the lease which is unexpired when the lease is determined, and any sum so allowed shall be treated as having been paid :

Provided that the allowance shall not exceed fifty per cent. of the whole duty payable.

(4) Where on any occasion on which increment value duty is due in respect of any increment value it is proved to the satisfaction of the Commissioners that reversion duty has been paid in respect of any benefit accruing to a lessor, or part of such a benefit, which is identical with the increment value,

such sums as the Commissioners determine to have been paid in respect of the benefit or part of the benefit shall be treated as being also a payment on account of increment value duty ; and where on any occasion on which reversion duty is due in respect of any benefit accruing to a lessor, it is shown to the satisfaction of the Commissioners that increment value duty has been paid on any increment value which is identical with that benefit or any part of that benefit, such sums as the Commissioners determine to have been paid in respect of that value shall be treated as being also a payment on account of the reversion duty in respect of that benefit or part of a benefit.

(5) Where a reversion has been mortgaged before the thirtieth day of April nineteen hundred and nine, and the mortgagee has foreclosed before the lease on which the reversion is expectant determines, the mortgagee shall not be liable to pay reversion duty in excess of the amount by which the total value of the land at the time of the determination of the lease exceeds the amount payable under the mortgage at the date of the foreclosure.

15.—(1) Reversion duty shall be recoverable from any lessor to whom any benefit accrues from the determination of a lease as a debt due to His Majesty, but shall rank *pari passu* with all other debts due from such lessor. Recovery of reversion duty.

(2) Every lessor shall, on the determination of a lease on the determination of which reversion duty is payable under this section, deliver an account to the Commissioners setting forth the particulars of the land and the estimated value of the benefit accruing to the lessor by the determination of the lease.

(3) If any person who is under an obligation to deliver an account under this section knowingly fails to deliver such an account within the period of three months after the determination of the lease, he shall be liable to pay to His Majesty a sum not exceeding ten per cent. upon the amount of any duty payable under this section, and a like penalty for every three months after the first month during which the failure continues.

(4) Section seventeen of the Customs and Inland Revenue 48 & 49 Vict. Act, 1885 (which relates to the power to assess duty according to accounts rendered, and to obtain other accounts), shall apply with respect to any account delivered under this section (with the exception of any provisions relating to appeals). c. 51.

*Valuation for Purposes of Duties on Land Values.*

Definition of  
values of  
land.

25.—(1) For the purposes of this Part of this Act, the gross value of land means the amount which the fee simple of the land, if sold at the time in the open market by a willing seller in its then condition, free from incumbrances, and from any burden, charge, or restriction (other than rates or taxes) might be expected to realise.

(2) The full site value of land means the amount which remains after deducting from the gross value of the land the difference (if any) between that value and the value which the fee simple of the land, if sold at the time in the open market by a willing seller, might be expected to realise if the land were divested of any buildings and of any other structures (including fixed or attached machinery) on, in, or under the surface, which are appurtenant to or used in connection with any such buildings, and of all growing timber, fruit trees, fruit bushes, and other things growing thereon.

(3) The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges and to any public rights of way or any public rights of user, and to any right of common and to any easements affecting the land, and to any covenant or agreement restricting the use of the land entered into or made before the thirtieth day of April, nineteen hundred and nine, and to any covenant or agreement restricting the use of the land entered into or made on or after that date, if, in the opinion of the Commissioners, the restraint imposed by the covenant or agreement so entered into or made on or after that date was when imposed desirable in the interests of the public, or in view of the character and surroundings of the neighbourhood, and the opinion of the Commissioners shall in this case be subject to an appeal to the referee, whose decision shall be final.

## APPENDIX E.

DUTIES ON LAND  
VALUES.FINANCE (1909-10) ACT,  
1910.REFERENCE: to be quoted  
in all communications.RETURN TO BE MADE BY AN OWNER OF LAND OR BY  
ANY PERSON RECEIVING RENT IN RESPECT OF LAND.

(Penalty for failure to make a due Return, not exceeding £50.)

Reference to the accompanying Sheet of Instructions (Form 2—Land).	<div style="display: flex; align-items: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg); margin-right: 10px;">SEE INSTRUCTION 2.</div> <div> Particulars extracted from the Rate Books. </div> <div style="margin-left: 10px;"> Parish . .  Number of Poor . .  Rate . .  Name of Occu-  pier . .  Description of  Property . .  Situation of  Property . .  Estimated ex-  tent . .  Gross Esti-  mated Rental  (or Gross  Value in Val-  uation List*)  Rateable Value </div> </div>	This space is not for the use of the person making the Return.
See Instruction 3.	<p><b>IMPORTANT.</b>—As the Land is to be valued as on 30th April, 1909, the particulars should be furnished, so far as possible, with reference to the circumstances existing on that date.</p> <p><b>I. Particulars required by the Commissioners, which must be furnished so far as it is in the power of the person making the Return to give them.</b></p>	
See Instruction 4.	(a) Parish or Parishes in which the Land is situated	
	(b) Name of Occupier .	

(\* Applicable to the Metropolis  
only.)

Acres

Roods

£

£

## DUTIES ON LAND AND MINERAL RIGHTS.

Reference to the accompanying Sheet of Instructions (Form 2—Land).										
See Instructions 1 and 3.	(c) Christian Name and Surname and full postal address of the person making the Return.									
See Instruction 9.	<p>(d) Nature of Interest of the person making the Return in the Land:—</p> <p>(1) Whether Freehold, Copyhold, or Leasehold.</p> <p>(2) If Copyhold, name of the Manor . . . . .</p> <p>(3) If Leasehold, (i.) term of lease and date of commencement (including, where the lease contains a covenant for renewal, the period for which the lease may be renewed), and (ii.) name and address of lessor or his successor in title.</p>	<p>1</p> <p>2</p> <p>3 (i.)</p> <p>3 (ii.)</p>								
	(e) Name and precise situation of the Land.									
SEE INSTRUCTION 2.	(f) Description of the Land, with particulars of the buildings and other structures (if any) thereon, and the purposes for which the property is used. (House, Stable, Shop, Farm, &c.)									
	(g) Extent of the Land, if known . . . . .	<table border="1"> <tr> <th data-bbox="660 1151 736 1185">Acres.</th> <th data-bbox="736 1151 812 1185">Roods.</th> <th data-bbox="812 1151 887 1185">Perches.</th> <th data-bbox="887 1151 953 1185">Yards.</th> </tr> <tr> <td data-bbox="660 1185 736 1260"></td> <td data-bbox="736 1185 812 1260"></td> <td data-bbox="812 1185 887 1260"></td> <td data-bbox="887 1185 953 1260"></td> </tr> </table>	Acres.	Roods.	Perches.	Yards.				
Acres.	Roods.	Perches.	Yards.							
	<p>(h) If the Land is let by the person making the Return, state:—</p> <p>(i.) Whether let under Lease or agreement, or</p> <p>(ii.) If there is no Lease or written Agreement, whether let by the Year, Quarter, Month, or Week.</p>	<p>(i.)</p> <p>(ii.)</p>								



Reference to the  
accompanying  
Sheet of  
Instructions  
(Form 2—Land).

(iii.) If let under Lease or Agreement—

(a) Term for which granted . . . .

(iii.) (a)

(b) Date of commencement of term.

(b)

(c) Whether granted for any consideration in money, paid or to be paid by the Tenant, in addition to the Rent, reserved,\* or

(c)

(d) Upon any condition as to the Tenant laying out money in Building, Rebuilding, or Improvements.\*

(d)

(iv.) Amount of Yearly Rent receivable.

(iv.) £

(\*If so, give full particulars.)

(i) If the person making the Return is also the Occupier, state the Annual Value; *i.e.* the Sum for which the Property is worth to be Let to a Yearly Tenant, the Owner keeping it in repair.

Annual Value £

(k) Amount of Land Tax (if any) and by whom borne.

£

borne by

(l) Amount of Tithe Rent-charge, or of any payment in lieu of Tithes, for the year 1909, and by whom borne.

£

borne by

(m) Amount of Drainage, or Improvement Rate, or of any similar charge, and by whom borne.

£

borne by

(n) Whether all usual Tenants' Rates and Taxes are borne by the Occupier, and, if not, by whom.

Reference to the accompanying Sheet of Instructions (Form 2—Land).	(o) By whom is the cost of repairs, Insurance, and other expenses necessary to maintain the Property, borne?	
See Instructions, page 167, footnote †.	<p>(p) Whether the Land is subject to any:—</p> <ul style="list-style-type: none"> <li>(i.) Fixed Charges (exclusive of Tithe Rent-charge entered in space (l)), and, if so, the Annual Amount thereof.</li> <li>(ii.) Public Rights of Way</li> <li>(iii.) Public Rights of User</li> <li>(iv.) Right of Common .</li> <li>(v.) Easements affecting the Land . . . .</li> <li>(vi.) Covenant or Agreement restricting the use of the Land, and, if so, the date when such Covenant or Agreement was entered into or made.</li> </ul> <p>(Full particulars should be given in each case.)</p>	<p>Annual Amount £</p>     <p>Date when made</p>
	<p>(q) Particulars of the last sale (if any) of the Land within 20 years before 30 April, 1909, and of Expenditure since the date thereof:—</p> <ul style="list-style-type: none"> <li>(i.) Date of Sale . . . .</li> <li>(ii.) Amount of Purchase-money and other consideration (if any).</li> <li>(iii.) Capital Expenditure upon the Land since date of Sale.</li> </ul>	<p>(i.)</p> <p>(ii.)</p>   <p>(iii.)</p>
See Instruction 5.	(r) Observations, with description, extent, and precise situation of any part of the Land which the Owner requires to be separately valued.	

Reference to the  
accompanying  
Sheet of  
Instructions  
(Form 2—Land).

(s) If the person making the Return desires that communications should be sent to an Agent or Solicitor on his behalf, the name and full postal address of such Agent or Solicitor.

See  
Instruction 6.

\* (t) (i.) Does the person making the Return own the minerals comprised in the Land?

(i.)

(ii.) If so, state:—

(a) Whether the minerals were, on 30 April, 1909, comprised in a mining lease or being worked by the proprietor.

(ii.) (a)

(b) Whether the minerals are now comprised in a mining lease or being worked by the proprietor.

(b)

(iii.) If not, state the name and address of the proprietor of the minerals.

(iii.)

(\* Minerals not comprised in a mining lease or being worked, are to be treated as having no value as minerals, unless the proprietor of the minerals fills up space (w) below.)

I hereby declare that the foregoing particulars are in every respect fully and truly stated to the best of my judgment and belief.

Dated this                      day of                      191 .

\_\_\_\_\_  
{Signature of person  
making the Return.

\_\_\_\_\_  
Rank, Title, or  
Description.

Reference to the accompanying Sheet of Instructions (Form 2—Land).	
See Instructions 7, 8, and 9.	<p align="center"><b>II. Additional particulars which may be given, if desired.</b></p> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>(u) Value of the Land as defined in Instruction 7, and estimated by the Owner, with particulars how arrived at :—</p> <ul style="list-style-type: none"> <li>(i.) Gross Value . . . (i.) £</li> <li>(ii.) Full Site Value . . (ii.) £</li> <li>(iii.) Total Value . . . (iii.) £</li> <li>(iv.) Assessable site Value . (iv.) £</li> <li>(v.) Particulars how Values arrived at *</li> </ul> <p>(* May be given on a separate sheet of paper, if desired.)</p> </div> <div style="width: 35%;"></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>(v) If the Owner does not desire to furnish his estimate of the Value of the Land, but intends to claim a Site - value deduction under Instruction 7 (iv.), (<i>a</i>), (<i>b</i>), (<i>c</i>), or (<i>d</i>), or under Instruction 9 (i.), (<i>a</i>), the intention should be stated. A form will then be sent in due course for particulars of the claim to be given.</p> </div> <div style="width: 35%;"></div> </div> <hr/> <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>(w) Nature, and estimate of the Capital Value of any minerals not comprised in a mining lease and not being worked, which have a value as minerals.</p> </div> <div style="width: 35%;"> <p>Nature</p>      <p>Capital Value £</p> </div> </div> <hr/> <div style="text-align: right; margin-bottom: 20px;">_____ Signature.</div> <div style="text-align: right;">_____ Date.</div>
See Instructions 6 and 10.	

## DUTIES ON LAND VALUES.

FINANCE (1909-10) ACT, 1910.

REFERENCE: to be quoted  
in all communications.

## CLAIM FOR SITE VALUE DEDUCTIONS.

Particulars to be furnished by an Owner of Land, or person receiving Rent in respect of Land, who desires to claim deductions in arriving at the Assessable Site Value of the Land.

*IMPORTANT.—As the Land is to be valued as on 30th April, 1909, the particulars should be furnished, as far as possible, with reference to the circumstances existing on that date.*

Attention is directed to the sections of the Finance (1909-10) Act, 1910, on the attached sheet.

[Sections 12, 16, 25, and 40 of the Act, and the definition of "fixed charge" in the Act, are set out on the attached sheet.]

When completed, the claim should be delivered or sent in the accompanying franked envelope to the District Valuer \_\_\_\_\_

1. Name, description, and precise situation of the land . . . . .

Acres.	Roods.	Perches.	Yards.

2. Extent of the Land, if known . . . . .

3. If the particulars given under heads (1) and (2) are not sufficient to identify the Land,

- (a) Annex a plan of the Land, or,
- (b) Quote the number or numbers of the Land on the 25-inch Ordnance Survey Map, or,
- (c) If it is desired to identify the Land on an official plan, the desire should be indicated here . . . . .

## DUTIES ON LAND AND MINERAL RIGHTS.

4. Particulars and amounts of any deductions not specified below which are claimed for the purpose of arriving at the Assessable Site Value.

[NOTE.—Particulars of deductions claimed under section 25, sub-sections 2 and 4 (a) of the Finance (1909-10) Act, 1910 (set out on the attached sheet), may be conveniently inserted here.]

Particulars.	Amounts.
	£

5. Portion of the Total Value directly attributable to—  
(a) Works Executed:—

Date when Executed.	By whom executed and nature of his interest in the Land.	Particulars of Works.	Amount Expended on Works.	Value directly attributable thereto.
			£	£

(b) Expenditure of a capital nature (including Expenses of Advertisement):—

Date of Expenditure.	By whom executed and nature of his interest in the Land.	Particulars of Expenditure.	Amount Expended.	Value directly attributable thereto.
			£	£

6. Portion of the Total Value directly attributable to the Appropriation of any Land or to the Gift of any Land for Streets, Roads, Paths, Squares, Gardens, or other Open Spaces for the use of the public:—

Date.	Name of person making the Appropriation or Gift and nature of his interest.	Particulars of Appropriation or Gift.	Value directly attributable thereto.
			£

## 7. Portion of the Total Value directly attributable to—

## (a) Expenditure on Redemption of Land Tax:—

Date of Redemption.	Number of Redemption Contract.	Amount of Land Tax redeemed.			Amount of Redemption Money.	Value directly attributable thereto.
		£	s.	d.	£	£

## (b) Expenditure on Redemption of any Fixed Charge:—

Date of Redemption.	Particulars of Charge redeemed.	Amount of Redemption Money.	Value directly attributable thereto.
		£	£

## (c) Expenditure on Enfranchisement of Copyhold Land or Customary Freeholds:—

Date of Enfranchisement.	Cost of Enfranchisement.		Value directly attributable thereto.
	Particulars.	Amount.	
		£	£

## (d) Expenditure on effecting the Release of any Covenant or Agreement restricting the use of the Land which may be taken into account in ascertaining the Total Value of the Land:—

Date when Covenant or Agreement entered into.	Date of Release of Covenant or Agreement.	Particulars of Covenant or Agreement.	Amount of Expenditure.	Value directly attributable thereto.
			£	£

## DUTIES ON LAND AND MINERAL RIGHTS.

- (e) Goodwill, or any other matter which is personal to the Owner, Occupier, or other person interested for the time being in the Land :—

PARTICULARS.	Value directly attributable thereto.
	£

8. Sums which it would be necessary to expend in order to divest the Land of Buildings, Timber, Trees, or other things of which it is to be taken to be divested for the purpose of arriving at the Full Site Value from the Gross Value of the Land, and of which it would be necessary to divest the Land for the purpose of realising the Full Site Value :—

PARTICULARS.	Amount.
	£

9. If the Land is Copyhold or Customary Freehold Land :—

- (a) Name of the Manor . . . . .  
 (b) Date of birth of Copyhold Tenant  
 (c) Date of last Admittance . . . .

(d) Customs of Manor, viz. :—

Incidents of Tenure.	PARTICULARS.	When payable.	Amount.		
			£	s.	d.
Fines . .					
Heriots . .					
Quit Rents .					



Other Incidents of Tenure, with particulars and amounts of any money payments:—

(e) Estimated Cost of Enfranchisement:—

PARTICULARS OF ITEMS.	Estimated Cost.
	£
Total Estimated Cost of Enfranchisement .	

**10. Undeveloped Land Duty.**—Additional particulars of Expenditure (if any) incurred by the Owner of any Land included in any scheme of land development, or by his predecessors in title, with a view to the development of the Land or to its use for any business, trade, or industry other than agriculture, on Roads (including paving, curbing, metalling, and other works in connection with Roads) or Sewers (Section 16).

Precise Situation of Land included in Scheme of Development.*	Area of Land included in Scheme of Land Development.				Date of Expenditure.	Nature and Particulars of Expenditure.	Amount of Expenditure.
	Acres.	R.	P.	Y.			

\* A plan should be annexed, if possible.

I hereby declare that the foregoing particulars are in every respect fully and truly stated to the best of my judgment and belief.

\_\_\_\_\_  
 { Signature of person making the Return.

\_\_\_\_\_  
 Rank, Title, or Description.

\_\_\_\_\_  
 { Address.  
 \_\_\_\_\_

## INSTRUCTIONS FOR MAKING RETURNS ON FORM 4.

### *I.—Instructions relating principally to particulars which it is compulsory to furnish.*

1. The persons who are required to make this return are (a) the owner of the land, and (b) any person receiving rent in respect of the land.

The expression "owner" means the person entitled in possession to the rents and profits of the land in virtue of any estate of freehold, except that where land is let on lease for a term of which more than fifty years are unexpired, the lessee under the lease, or, if there are two or more such leases, the lessee under the last created underlease, is deemed to be the owner instead of the person entitled to the rents and profits as aforesaid.

2. The expression "land" includes all buildings and other structures thereon, and all minerals, on, in, or under the surface of the land.

3. If any person who is not the owner of land, or a person receiving rent, is called upon to make a return, he should return the form to the officer named in the notice, stating the nature and extent of his own interest in the land, and the name and address of the owner, or of the person to whom he pays rent. If any person called upon to make a return is unable to give all the information required, he should furnish all the particulars which it is in his power to give, and insert the words "Not known" in the spaces which he is unable to fill up.

4. If any piece of land under one occupation extends into two or more parishes, separate returns may, if the owner

thinks fit, be made for the parts lying within each parish, or, one return, relating to the whole of the land, may be made in the parish in which the greater part of the land is situate. In the latter case, notes should be made on the forms for the other parish or parishes affected, "*Included in return for parish*" (stating the name of the parish in which the inclusive return has been made).

5. Attention is called to the fact that the owner has the option of requiring the Commissioners to value separately any part of any land. In cases in which it is desired to exercise this option, particulars of the division required should be entered in the space for "Observations" on the form of return.

6. For the purposes of valuation, minerals are to be treated as a separate parcel of land; but where the minerals are not comprised in a mining lease, or being worked, they are to be treated as having no value as minerals, unless the proprietor of the minerals, in his return, specifies the nature of the minerals and his estimate of their capital value.

## II.—*Instructions relating principally to particulars which the owner may furnish, if he thinks fit.*

7. If the owner desires to furnish his estimate of the total value and the assessable site value of the land, the value to be returned is not merely the value of the interest or share belonging to the person making the return, but the whole value of the land, that is, the aggregate value of all the interests therein, subject only to the limitations specified below.

(i.) The gross value of land means the amount which the fee simple of the land, if sold at the time in the open market by a willing seller in its then condition, free from incumbrances,\* and from any burden, charge, or restriction (other than rates or taxes), might be expected to realise. Gross value.

(ii.) The full site value of land means the amount which Full site value.

\* The expression "incumbrance" includes a mortgage in fee or for a less estate, and a trust for securing money, and a lien, and a charge of a portion, annuity, or any capital or annual sum, but does not include a fixed charge as defined in the footnote below.

remains after deducting from the gross value of the land the difference (if any) between that value and the value which the fee simple of the land, if sold at the time in the open market by a willing seller, might be expected to realise if the land were divested of any buildings, and of any other structures (including fixed or attached machinery) on, in, or under the surface, which are appurtenant to, or used in connection with, any such buildings, and of all growing timber, fruit trees, fruit bushes, and other things growing thereon.

Total value.

(iii.) The total value of land means the gross value after deducting the amount by which the gross value would be diminished if the land were sold subject to any fixed charges,<sup>†</sup> and to any public rights of way, or any public rights of user, and to any right of common, and to any easements affecting the land, and to any covenant or agreement restricting the use of the land, entered into or made before the 30th day of April, 1909, and to any covenant or agreement restricting the use of the land entered into or made on or after that date, if the restraint imposed by the covenant or agreement so entered into or made on or after that date was when imposed desirable in the interests of the public, or in view of the character and surroundings of the neighbourhood.

Assessable  
site value.

(iv.) The assessable site value of land means the total value after deducting—

(a.) The same amount as is to be deducted for the purpose of arriving at full site value from gross value; and

(b.) Any part of the total value which is directly attributable to works executed, or expenditure of a capital nature (including any expenses of advertisement) incurred *bonâ fide* by, or on behalf of, or solely in the interests of any person interested in the land, for the purpose of improving the value of the land as building land, or for the

<sup>†</sup> The expression "fixed charge" means any rent charge (that is, tithe, or tithe rent charge, or other periodical payment or rendering in lieu of or in the nature of tithe, or any fee farm rent, rent seck, quit rent, chief rent, rent of assize, or any other perpetual rent or annuity granted out of land), and any burden or charge (other than rates or taxes) arising by operation of law, or imposed by any Act of Parliament, or imposed in pursuance of the exercise of any powers, or the performance of any duties under any such Act, otherwise than by a person interested in the land or in consideration of any advance to any person interested in the land.

purpose of any business, trade, or industry other than agriculture\* ; and

(c.) Any part of the total value which is directly attributable to the appropriation of any land or to the gift of any land by any person interested in the land for the purpose of streets, roads, paths, squares, gardens, or other open spaces for the use of the public ; and

(d.) Any part of the total value which is directly attributable to the expenditure of money on the redemption of any land tax, or any fixed charge, or on the enfranchisement of copyhold land or customary freeholds, or on effecting the release of any covenant or agreement restricting the use of land which may be taken into account in ascertaining the total value of the land, or to goodwill or any other matter which is personal to the owner, occupier, or other person interested for the time being in the land ; and

(e.) Any sums which it would be necessary to expend in order to divest the land of buildings, timber, trees, or other things of which it is to be taken to be divested for the purpose of arriving at the full site value from the gross value of the land, and of which it would be necessary to divest the land for the purpose of realizing the full site value.

Where any works executed or expenditure incurred for the purpose of improving the value of the land for agriculture have actually improved the value of the land as building land, or for the purpose of any business, trade, or industry other than agriculture, the works or expenditure are to be treated as having been executed or incurred also for the latter purposes.

8. A person is not entitled to claim any deduction for the purpose of ascertaining the site value of any land on any occasion on which increment value duty becomes payable, if the deduction is one which could have been, but was not, claimed for the purpose of ascertaining the original site value of the land.

\* The expression "agriculture" includes the use of land as meadow or pasture land or orchard or osier or woodland, or for market gardens, nursery grounds, or allotments ; and the expression "agricultural land" is to be construed accordingly.

9. The following provisions have effect with respect to copyholds, including customary freeholds :—

(i.) In the case of copyholds of inheritance, and copyholds held for a life or lives or for years where the tenant has a right of renewal, and customary freeholds—

(a.) The total and site values of the land are to be ascertained as if the land were freehold land, subject to a deduction of an amount equal to the amount which it would cost to enfranchise the land ;

(b.) References to the fee simple of land are to be treated as references to the whole copyhold or customary interest or estate ;

(c.) In the definition of “owner,” are ference to the person entitled to the rents and profits of the land as tenant by copy of court roll or customary tenure is to be substituted for the reference to the person entitled to the rents and profits of the land in virtue of an estate of freehold ;

(ii.) In the case of copyhold land held for a life or lives, or for years where the tenant has not a right of renewal, the Finance (1909/10) Act, 1910, is to have effect as if the land were freehold land and the copyhold interest were a leasehold interest.

10. The total value of minerals means the amount which the fee simple of the minerals, if sold in the open market by a willing seller in their then condition, might be expected to realise, and the capital value of minerals means the total value, after allowing deductions for any works executed or expenditure of a capital nature incurred *bonâ fide* by or on behalf of any person interested in the minerals for the purpose of bringing the minerals into working, or where the minerals have been partly worked, such deduction as is proportionate to the amount of minerals which have not been worked.

## APPENDIX F.

### LAND VALUES DUTIES.

#### Generally.

THE LAND VALUES (REFERENCE) RULES, 1910, DATED JULY 25, 1910, MADE BY THE REFERENCE COMMITTEE FOR ENGLAND UNDER SECTION 33 OF THE FINANCE (1909-10) ACT, 1910 (10 EDW. 7, c. 8).

In pursuance of section thirty-three of the Finance (1909-10) Act, 1910, the Reference Committee for England constituted under that section hereby make the following Rules:—

1. These rules may be cited as the Land Values (Referee) Short title. Rules, 1910.

2.—(1.) In these rules, unless the context otherwise Interpretation requires,—“The Act” means the Finance (1909-10) Act, 1910.

“The Commissioners” means the Commissioners of Inland Revenue.

(2.) The Interpretation Act, 1889, applies for the purpose of the interpretation of these rules as it applies for the purpose of the interpretation of an Act of Parliament.

3.—(1.) An appeal to a referee under the Act may be made by sending to the Reference Committee and to the Commissioners within the time prescribed by these rules, a written notice of appeal showing the matter to which the appeal relates and giving particulars of the grounds of the appeal. <sup>Notice of appeal.</sup>

(2.) The notice of appeal shall be in the form set out in the Schedule to these rules, or in a form to the like effect.

(3.) The Commissioners shall cause printed forms of notice of appeal to be furnished gratis to any person who desires to appeal and applies for a form either to them or to a district valuer, or to any other person authorised by the Commissioners to furnish the forms.

Time for  
notice of  
appeal.

4. The following provisions shall have effect as respects the time of giving notice of appeal:—

(1.) In the case of an appeal against total value or site value on a provisional valuation—

(a) A notice of appeal shall not be treated as an effective notice of appeal if given sooner than thirty days after notice of objection to the provisional valuation has been given by the appellant;

(b) After the expiration of that time notice of appeal may be given at any time unless notice is given by the Commissioners to the objector that they do not propose to amend their provisional valuation, or do not propose to make any further amendment in their provisional valuation to meet his objection, and in that case notice of appeal must be given within thirty days after notice is so given by the Commissioners.

(2.) In the case of an appeal against any assessment of duty, or against any refusal of the Commissioners to make any allowance or to make the allowance claimed, or against any apportionment, or against the determination of any other matter by the Commissioners, notice of appeal must be given within thirty days after the Commissioners have given notice to the appellant of their assessment, refusal, apportionment, or determination as the case may be.

Extension of  
time for  
giving notice  
by appellant.

5.—(1.) The Reference Committee may, on the application of any person desiring to appeal, extend the time for appeal prescribed by the foregoing rule, as they, in their absolute discretion, think fit, and may so extend the time although the application is not made until after the expiration of the time prescribed.

(2.) Any application for an extension of the time for appeal must be made in writing to the Reference Committee, and must state the grounds of the application, and a copy of



the application must be sent to the Commissioners by the applicant.

(3.) The Reference Committee shall give the Commissioners reasonable opportunity for laying before them in writing any objections which the Commissioners may have to any such application for an extension of time, and shall consider any such objections.

6. The referee to whom an appeal is to be referred shall be selected by the Reference Committee, and the Reference Committee shall, as soon as they have selected the referee, inform the Commissioners and the appellant of the name and the address of the referee selected. Selection of referee.

7.—(1.) The referee selected shall, as soon as may be, proceed with the determination of the appeal, and arrange with the Commissioners and the appellant the time and place for consultation with the Commissioners and the appellant with respect thereto. Consideration of appeal by referee.

(2.) The Reference Committee shall furnish the referee with a copy of the notice of appeal, and the Commissioners and the appellant shall furnish to the referee on his request any document or other information which it is in their or his power to furnish, and which the referee may require for the purpose of the determination of the appeal.

(3.) Subject to the provisions of the Act and of these rules, the proceedings on the consideration of an appeal shall be such as the referee, subject to any special directions of the Reference Committee, may in his discretion direct.

(4.) In this Rule any reference to the Commissioners or to the appellant includes a reference to any person nominated by the Commissioners or the appellant respectively under subsection (3) of section 33 of the Act.

8. The appellant shall not, on the consideration of his appeal, be allowed to rely upon any grounds of appeal not specifically set out in his notice of appeal, but the referee may, if he thinks it just under the circumstances, allow the notice of appeal to be amended at any time. Appellant limited to grounds of appeal.

9. The decision of the referee shall be in the form contained in the Schedule to these rules, or in a form to the like effect, and the referee shall cause copies of his decision to be Decision of referee.

furnished to the Reference Committee, the Commissioners and the appellant.

Power to  
select  
another  
referee.

10. The Reference Committee may, in the case of the death or incapacity of the referee originally selected, or if it is shown to the Committee that it is expedient so to do, in any other case, at any time before the decision of an appeal by a referee, revoke the reference of the appeal to the selected referee, and select another referee for the purpose of determining the appeal.

Appearance  
of third  
parties.

11.—(1.) On the consideration of any appeal, the referee shall on the application of any person who appears to the referee to be interested in the land in respect of which the appeal is made, or to be otherwise interested in the matter of the appeal, give him an opportunity of putting his case before the referee in writing, and if necessary, of taking part in any consultation with reference to the appeal.

(2.) The Commissioners, when they receive notice of any appeal against total or site value on a provisional valuation, shall give notice of the appeal to any person from whom a return has been required for the purpose of the valuation, and to any person who has applied to the Commissioners for a copy of the provisional valuation of the land under subsection (5) of section twenty-seven of the Act.

Alteration  
of valuations,  
&c. by Com-  
missioners.

12. The Commissioners shall as soon as may be on receiving notice of the decision of the referee on any appeal make such alterations in the particulars of any valuations, apportionments, reapportionments, assessments, or other documents as may be necessary to carry out the decision of the referee.

Provision as  
to sending of  
notices.

13. Any notice or other document required or authorised to be sent to any person for the purpose of these rules shall be deemed to be duly sent if sent by post addressed to that person at his ordinary address, and the ordinary address of the Reference Committee shall for this purpose be deemed to be the office of the Surveyors' Institution.

Inform-  
alities not  
necessarily  
to invalidate  
proceedings.

14. Any failure on the part of any authority or any person to comply with the provisions of these rules shall not render the proceedings on a reference to a referee, or anything done in pursuance thereof, invalid, unless the referee so direct.

*Schedule.*

## I.—FORMS OF NOTICE OF APPEAL.

A.

FINANCE (1909-10) ACT, 1910, s. 33.

NOTICE OF APPEAL TO REFEREE AGAINST TOTAL OR SITE VALUE ON  
A PROVISIONAL VALUATION.

To the Reference Committee.

[Or, To the Commissioners of Inland Revenue.]

I hereby give notice that I intend to appeal against \* the total value and site value fixed on the annexed provisional valuation, on the ground that \* the items numbered in the annexed provisional valuation are excessive and that the items numbered in the annexed provisional valuation are insufficient.

† Signed \_\_\_\_\_

Address \_\_\_\_\_

Dated \_\_\_\_\_

\* If the appeal is against total value only or site value only, or if the ground of appeal is that certain items are excessive only or are insufficient only, the unnecessary words will be deleted.

† If an agent, the name and address of the principal on whose behalf he acts must be stated.

## PROVISIONAL VALUATION.

County	Parish	No. of hereditament
--------	--------	---------------------

## 1. GROSS VALUE.

## DEDUCTIONS FROM GROSS VALUE.

(a) To arrive at Full Site Value.		(b) To arrive at Total Value.		
2	Difference between Gross Value and Value of the Fee Simple of the Land divested of Buildings, Trees, &c.	3	Fee Farm Rent, Rent Seck, Quit Rent, Chief Rent, or Rent of Assize . . . . .	Fixed Charges.
		4	Other Perpetual Rent or Annuity . . . . .	
		5	Tithe or Tithe Rent Charge . . . . .	
		6	Burden or charge arising by operation of Law or imposed by Act of Parliament . . . . .	
		7	If Copyhold, Cost of Enfranchisement . . . . .	
		8	Public Rights of Way or User . . . . .	
		9	Rights of Common . . . . .	
		10	Easements . . . . .	
		11	Restrictions under Covenant or Agreement . . . . .	
		Total Deductions . . . . .		
FULL SITE VALUE		TOTAL VALUE . . . . .		

Fixed Charges.

## DUTIES ON LAND AND MINERAL RIGHTS.

## DEDUCTIONS FROM TOTAL VALUE TO ARRIVE AT ASSESSABLE SITE VALUE.

12. Deductions from Gross Value to arrive at Full Site Value (as above) . . . . .	
13. Works executed . . . . .	
14. Capital expenditure . . . . .	
15. Appropriation of Land for streets, roads, open spaces, &c.	
16. Redemption of Land Tax or Fixed Charge . .	
17. Enfranchisement of Copyholds . . . . .	
18. Release of Restrictive Covenants . . . . .	
19. Goodwill or personal elements . . . . .	
20. Cost of clearing Site . . . . .	
Total Deductions . . . . .	
ASSESSABLE SITE VALUE . . . . .	

Special Form for Minerals treated as a separate parcel of land.

1. TOTAL VALUE.	
<i>Less—</i>	
2. Deductions on account of works executed or expenditure of a capital nature incurred . . . . .	
CAPITAL VALUE . . . . .	

B.

## FINANCE (1909-10) ACT, 1910.

## NOTICE OF APPEAL TO REFEREE IN RESPECT OF ANY MATTER OTHER THAN TOTAL OR SITE VALUE ON A PROVISIONAL VALUATION

County                      Parish                      No. of hereditament.

To the Reference Committee.

[Or, To the Commissioners of Inland Revenue.]

I hereby give notice of my intention to appeal against \*

The particulars of my grounds of appeal are as follows:—

† Signed \_\_\_\_\_

Address \_\_\_\_\_

Dated \_\_\_\_\_

\* Here insert the matter appealed against, *e.g.*, "The assessment of duty under Part I. of the Finance Act," "The refusal of the Commissioners to make an allowance in respect of," &c., &c., or "The determination by the Commissioners in respect of the following matter, namely"—

† If an agent, the name and address of the principal on whose behalf he acts must be stated.

## II.—FORM OF DECISION OF REFEREE.

FINANCE (1909-10) ACT, 1910.

DECISION OF REFEREE ON APPEAL.

The decision on the appeal in respect of which the annexed notice of appeal has been given is as follows \* :—

Signed \_\_\_\_\_  
Referee.

Dated \_\_\_\_\_

---

\* If the notice of appeal is in Form A, the decision should be stated by reference to the items complained of in the particulars of the grounds of appeal. Any variations in those items, with the consequential alterations of the totals, should be stated.

If the notice of appeal is in Form B, the decision should follow as far as possible the form of the notice of appeal.

Pursuant to the powers contained in section 33 of the Finance (1909-10) Act, 1910, we have made the above rules and forms.

*Alverstone, C.J.*

*Herbert H. Cozens-Hardy, M.R.*

*Leslie R. Vigers.*

25 July, 1910.

Approved by the Treasury,

*John W. Gulland.*

*Wedgwood Benn.*

## APPENDIX G.

## FINANCE (1909-10) ACT, 1910.

## INCREMENT VALUE DUTY.

INSTRUCTIONS AS TO PAYMENT OF INCREMENT VALUE DUTY  
ON DEATH.

The Commissioners of Inland Revenue desire to call the attention of Solicitors to the provisions of Section 5 of the above Act relating to the assessment, collection and recovery of Increment Value Duty in respect of land or any interest in land passing on death.

The Commissioners are anxious to make the procedure as simple as possible, and they have decided not to require Executors and others to render in the first instance a separate account for the purposes of Increment Value Duty.

The necessary valuations will be made by reference to the affidavit and accounts furnished for Estate Duty purposes, and a further account for the purpose of Increment Value Duty will only be called for in cases where there is a *primâ facie* liability to that duty.

By order of the Commissioners.

## APPENDIX H.

## FINANCE (1909-10) ACT, 1910.

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INCREMENT VALUE DUTY.

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## SUPPLEMENTAL INSTRUCTIONS.

With reference to the Regulations made by the Commissioners of Inland Revenue under Section 4 of the Finance (1909-10) Act, 1910, it has been brought to the notice of the Commissioners that Regulation 3 has, in some quarters, been interpreted as requiring in every case the delivery of a full statement of any covenants affecting the property, whether contained in the instrument itself or not. The intention of the Regulation, however, is that only such covenants as may have directly influenced the consideration for the transaction should be set forth. In other cases a statement that the covenants have had no influence in fixing the consideration, or that they are the usual covenants for the benefit of the property, will be sufficient.

The Commissioners have decided to refrain from insisting in every case on a strict compliance with that portion of Regulation 3 which relates to the production of plans, and to require a plan to be supplied only in those cases where the description given in the instrument is not sufficient to enable the property to be identified. Where a plan is required, a rough tracing showing the boundaries of the property will suffice.

By order of the Commissioners.





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